

Oct. 8. 80

James THE Heriford
Present Practice
OF
FINES
AND
RECOVERIES:
WITH THE
THEORY
Belonging to Each.

In the SAVOY:
Printed by HENRY LINTOT, Law-Printer
to the King's most Excellent Majesty for
C. Waller, opposite Fetter-Lane, Fleet-
Street. M.DCC.LI.

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THE
Excellent Justice

OF

F I N E S

AND

RECOVERIES:

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A
TREATISE
OF
FINES
AND
COMMON RECOVERIES.

And First of FINES.

A Fine is a solemn Act for the better Assurance of Lands, Quieting of Mens Estates, and Avoiding of Suits; and as some Authors have very wisely observed, there neither is nor can be provided by Law, a greater or more noble Security for the securing of Estates, or a more solemn Testimony for the Confirmation of Estates, than a Fine levied in the King's Courts upon Record; and it may very justly be called the noblest Assurance, because said to be *de dono* or *concessit*, whereas a Recovery seems to be, by judicial Process.

It is called a Fine, *Quia finem Litibus imponit*; and the Authority and Usefulness thereof plainly appears from the Words of the Indentures,
B tures,

tures, ingrossed by the proper Officer of the Court, viz. *Hæc est finalis Concordia facta in Curia Domini Regis, &c.* by which Agreement recorded in this solemn Manner, as was observed before, Men are quieted in the Possession of their Estates, and Suits avoided.

Co. 2 Inst.
511.

As to the Antiquity of Fines, my Lord Coke tells us, that they were frequent before the Conquest; and it has been said, that they have much of their Strength from the Statutes of * 4 H. 7. cap. 24. and 32 H. 8. cap. 36. A Fine includes all that is in a Feoffment, ergo commonly called in our Books, A Feoffment upon Record; but by Salk. 340. it appears it is improperly so termed, for the Meaning of it was, it hath the Effects of a Feoffment to some Purposes, if the Cognizor was seised of the Freehold at the Time the Fine was levied.

By Fine, Lands may be conveyed in Fee-Simple, Fee-Tail for Life, or Years, and Rent may be reserved thereon. Fines before the Stat. of the 18 Ed. 1. commonly called *Modus levandi Fines*, were leviable in inferior Courts upon Bills or Complaints, which now cannot be unless by Grant or Custom, by the negative Words of that Statute. But this does not extend to Antient Demesne Courts; for then this Statute would make Fines of those Lands leviable in the Court of Common Pleas, whereas they are not, but reverfible by a Writ of Deceit; so that they would be under a double Disadvantage, that a Fine would not be leviable of those Lands any where, if not in the

* Note; These Statutes declare the Force of Fines, how far they bar and take away the Entry or Action of Parties, Privies and Strangers having Right.

Court

Court of Antient Demefne; whereas that which is their Privilege could never be intended to be to their Difadvantage. *Salk.* 340.

Fines may be levied in the County Palatine of *Lancaster*, by 37 *H. 8. cap.* 19. of Lands in that County.

And by 2 & 3 *Ed. 6. cap.* 28. Fines may be levied of Lands in the County Palatine of *Chester*.

And by 5 *Eliz. cap.* 27. of Lands within the County Palatine of *Durham*.

And by 43 *Eliz. cap.* 15. Fines may be levied before the Mayor of the City of *Chester*: And by the same Statute *Part 2.* a *Dedimus Potestatem* may be granted by the Mayor of *Chester* to take the Acknowledgment of a Fine.

But Fines taken before the Mayor of *Chester* may (upon Error) be reversed before the Justices of that County. *Same Statute, Part 3.*

The End and Intent of a Fine is, to pais a Right, and limit an Estate from one to another; and this appears by the Concord.

Of the several Sorts of Fines.

There are four different Sorts of Fines, viz.

1. *A Fine sur Cognizance de Droit come ceo que il ad de son Done, &c.*
2. *A Fine sur Done, Grant and Render.*
3. *A Fine sur Cognizance de Droit tantum.*
4. *A Fine sur Concessit.*

The Nature of the several Kinds of Fines.

And first of

The Fine sur Cognizance de Droit come ceo, &c.

IT is so called, because by it the Cognizor acknowledgeth the Right of the Cognizee, which he hath by a Gift from the Cognizor; and it is said to be a single Fine, and is the principal, best and surest of all Fines; and is most commonly used as being the surest for the Purchaser: It is said to be executed, because (in Law) it gives present Possession to the Cognizee of the Lands, &c. comprised in the Fine; so that he needs no Writ of *Habere facias Seisinam*, or other Means for forcing the Execution thereof; for it implies in itself Livery and Seisin, *Pract. Reg.* 148. So that the Cognizee may enter, for the Estate is thereby, in Law, in him, but subject to the Uses as are declared in the Deed to declare the Uses thereof; and such Fine shall enure (according to a known Maxim) to the Use of the Cognizor till the Uses of the Fine are otherwise declared. This Fine is levied with Proclamations

rions according to the Statute of the 4 H. 7. cap. 24.

Observe, That tho' this Fine generally implies a Fee-Simple to pass thereby, yet it is only so by Implication; and therefore there is no Repugnancy to limit an Estate for Life to Cognizee, for the Generality of the precedent Donation may be expressed to be for Life or in Tail, and the general Intendment of the Conuzance may be qualified by an express Limitation. See the Case of *Hunt and Bourn*, Hil. Ann. B. R. 4th Resolution, and 41 E. 3. 14. Co. Lit. 9 b. 1 Salk. 340, 341.

A Fine *sur Conuzance de droit come ceo*, &c. may not be levied to any Person that is not Party to the Writ of Covenant, though a Vouchee, after he hath entered into the Warranty to the Demandant, it is said may confess the Action, or levy a Fine to the Demandant, for he is then supposed to be Tenant of the Land though he is not a Party to the Writ; and yet a Fine levied by a Vouchee to a Stranger is void.

No single Fine can be with a Remainder over to another Person not contained in it: But if *A.* levy a Fine to *B.* *sur Conuzance de droit come ceo*, &c. and *B.* by the same Concord grants back again the Land to *A.* for Life, Remainder to *E.* the Wife of *A.* for her Life, Remainder to *A.* and his Heirs; this will be a good Fine. (See third Precedent.)

Note; This kind of Fine is intended whenever a Fine is generally mentioned throughout this Treatise.

If Rent be reserved upon this Sort of Fine, it is void.

2dly, Of a *Fine sur Done, Grant and Render*.

A *Fine sur Done, Grant and Render*, is called a double Fine, being in a Manner two Fines, for it comprehends in it the Nature and Use of a *Fine sur Cognizance de Droit come ceo*, &c. and a *Fine sur Concessit*, because it first supposes the Cognizor to release, with Warranty, the Lands contained therein to the Cognizee; and the Cognizee by the same Fine grants or renders back again to the Cognizor, or to a Stranger (not named in the Writ of Covenant) which is supposed to be by the Consent of the Cognizor, the Lands so released, or Part thereof.

This Fine is partly executed and partly executory, for so far as it may be said to take upon it the Nature of a *Fine sur Cognizance de Droit come ceo*, &c. it may be said to be an Agreement executed; but so far as it resembles a *Fine sur Concessit*, it may be said to be executory, only because Possession of the Land was not executed by the Fine, but a Writ of *Habere facias Possessionem* must issue to put the Cognizee or his Heirs into Possession; but if the Party be in Possession, it may be said to be executed, and needs no Writ of Possession, otherwise it is executory. 5 Co. 38.

The Difference between a *Fine sur Grant and Render* and a *Fine sur Cognizance de Droit come ceo*, &c. is, that the latter must be levied of the Lands mentioned in the Writ of Covenant, i. e. the Agreement must relate to the whole Lands therein mentioned; but the *Fine sur Grant and Render* may be to the Render of another

another Thing than is mentioned in the Original, but then it must so far be not another as to be implied incident or a Part of what is contained in the Writ of Covenant: For Example, Where *A.* brings a Writ of Covenant against *B.* for the Manor of *D.* *B.* can't levy a Fine to *A.* of a Rent to be issuing out of the Manor of *D.* but he must levy a Fine to *A.* of the Manor of *D.* according to the Writ, and his Covenant is therein expressed; but *A.* may grant and render to *B.* a Rent out of the same Manor contained in the Fine, (*See the second Precedent*) but not of any other Land; neither can the Grant and Render be of any Thing collateral to the Land, &c. contained in the Writ or of another Nature, and neither issuing out of or not incident to the Land contained in the Writ of Covenant.

Note; The Render of a Fine cannot be without Writing to any other Use. *Mod. R.* 629.

A Fine with Grant and Render is a Conveyance at Common Law, and the Render makes the Cognizor a new Purchaser, as much as a Feoffment and Re-enseoffment at Common Law. 1 *Salk.* 337. *Price against Langford.*

Note; A Render must be made upon a *come ceo sur Release*, or other Fine executed.

If two levy a Fine, the Grant and Render may be to one of them, and none may take the first Estate by way of Render but the Cognizors or one of them.

Note; No single or double Fine may be with a Remainder over to any other Person not contained in it, but it must be to the Cognizee and his Heirs only; nor can any Rent be reserved upon a pure Fine, *sur Cognizance de Droit come ceo*, &c. but upon a Fine of Grant and

Render, and upon *sur Concessit* only, nor may it be on a Condition. 5 Co. 38.

The Render of a Rent must be to one of the Parties to the Fine, and not to a Stranger. *Dyer* 63. 2 Co. 39. in Lord *Cromwell's* Case.

If a Grant and Render in a Fine of Land be immediately, and *in primo gradu*, to one that is no Party to the Writ, this is not good, but immediately, or *in secundo gradu*, such a one may take; as if two levy a Fine, and the Grant and Render back again is to one of them only, this is good. 2 Co. *Inst.* 514.

So if a Writ of Covenant be brought by *A.* against *B.* of the Manor of *D.* and *B.* levy a Fine to *A.* *come ceo*, &c. in this Case *A.* may grant or render the same to *B.* for Life or in Tail, the Remainder to *F.* in Fee; and this is good as in a Deed by way of Remainder. 2 *Inst.* 514. *Bro.* 111, 117, 118.

Note, That by a double Fine, or Fine with Render, almost any kind of Contract about Land may be made and drawn up in Form by a Fine of this Nature. See *West. Symb.* 2 Part. *Perk. Sect.* 629. *Bro. Fines* 108.

It is said a Man may not by this Fine reserve to himself a less Estate by way of Remainder than the Fee; as if *A.* levy a Fine of his Land to *B.* and *B.* regrant, and render it to *A.* for Life, this will be void. 14 H. 4. 31. 34 E. 3. 26. *Dyer* 33, 34, 69. *But see after.*

And there may not be a Condition or Clause of Re-entry for Non-payment of Rent inserted in this kind of Contract or Concord; and yet some hold that a Fine levied to one in Tail upon a Condition, with a Remainder over, is good. 1 Co. 76. 6 Co. 33. 2 Co. in *Cromwell's* Case. *Dyer* 33, 69. See 27 H. 8. 84. *Plow.* 34. 24 E. 3. 62. whereby it seems a
Fine

Of Fines.

Fine may be levied to one upon Condition, with a Remainder, but not with Re-entry.

Note, That the Render of a Concord may not be of any other Thing than what is in the Writ of Covenant, unless it be of a Rent or Common issuing out of it. 18 E. 4. 12.

But a Fine may be (as hath been said) with a Render back again of some Estate in the same Land that passeth by the Fine, or some Rent out of it; so that in this kind of Fine there may be a Reservation of Rent, a Clause of Distress, or *Nomine pænæ* and a *Warranty*; and therefore if *A.* levy a Fine to *B.* *sur Cognizance de Droit come ceo*, &c. and *B.* by the same Concord doth grant and render the Land back again to *A.* for Life, without Impeachment of Waste, the Remainder to *C.* the Wife of *A.* for her Life, the Remainder to *A.* and his Heirs; this is a good Concord, and by this Devise a Jointure may be, and is oftentimes made for a Woman.

So if *A.* and *B.* his Wife levy a Fine to *C.* in Fee, *sur Cognizance de Droit come ceo*, &c. and then *C.* rendereth to *A.* for Life, without Impeachment of Waste, the Remainder to *B.* his Wife, for Term of her Life, the Remainder to *A.* and his Heirs; this is good. *Bro. Fines* 108.

And by this Form a Lease for Life or Years may be made by Fine with a Render, *viz.* The Lessee must acknowledge the Land to be the Right of the Lessor that is seised of the Land, as that, &c. and then the Lessor must grant and render the same back again to the Lessee (that is Conusor in the Fine) for Life, or for a certain Number of Years (as the Agreement is) reserving a Rent, with a Clause of Distress; and this is a good Fine, and a common Device

vice for this Purpose; but if the Lessor be Tenant in Tail, it seems this kind of Fine will not bind the Issue in Tail; and yet if *A.* Tenant in Tail, and *N.* do by Fine acknowledge the Land to be the Right of a Stranger, as that, &c. and then the Stranger (that is the Cognizée) doth grant and render his Land back again to *N.* for Life or Years, rendring a Rent, with a Clause of Distress, &c. and then grants and renders the Reversion to the Tenant in Tail; this will be a good Fine to bar the Issue in Tail, and will likewise pass the Rent and Reversion to the Tenant in Tail also. *Bro. Fines* 106, 118. 6 Co. 33. 1 Co. 76. *Plow.* 435. *Dyer* 279. *Perk. Sect.* 629.

To have a Lease for Years to bind a Tenant in Tail: The Tenant in Tail and the Lessee must acknowledge the Tenements to be the Right of one *A.* a Stranger, who grants and renders by the same Fine to the Lessee for Years, the Remainder to the Lessor and his Heirs; this with Proclamations is a good Lease to bar the Issue in Tail. 44 E. 3. 45.

And by a Fine with a Render, a Lease for Years may be made thus: If one that is Tenant in Tail within 11 H. 7. accepts of a *Fine sur Cognizance de Droit come ceo*, &c. and then by the same Fine renders back the Land to the Cognizor for 100 Years; this will be a Discontinuance, and bind the Issue by this Statute. 2 Leon. Case 206.

Note; A Fine levied to a Stranger cannot increase an Estate, but it may extinguish a Right. 2 Ld. Raym. 782.

If a Man levies a Fine of an Advowson, and accepts a Grant and Render, the Appendancy is totally destroyed, because there was an instantaneous Severance; but if a Man seized
of

Of Fines.

of a Manor to which an Advowson is appendant, accepts a Fine of the Advowson, and grants and renders every second Turn by the alternate Turn, the Appendancy continues.

1 *Ld. Raym.* 198.

3dly, Of a *Fine sur Cognizance de Droit tantum.*

A *Fine sur Cognizance de Droit tantum*, is so called, because the Cognizor only acknowledges the Estate to be the Right of the Cognizee, and is said to be executory, because the Words *Come cea que il ad de son Done*, or rather *ut illi quæ idem*, the Cognizee, *habet de dono* of the Cognizor, are left out, and is much of the Nature of a *Fine sur Concessit*, and is commonly used to pass a Reversion; and then it is expressed in the Fine that the particular Estate is in another, and that the Cognizor wills that the Cognizee shall have the Reversion, or that the Land shall remain to him after the particular Estate is spent. And sometimes it is used by Tenant for Life, to make a Lease (in the Nature of a Surrender) to him in Reversion, but not by the Word *Surrender*; for it is said, a particular Tenant as for Life, cannot surrender his Tenement to him in Reversion or Remainder by Fine, but he may grant and release to him by a Fine. 44 *E. 3.* 36. 703 *Co.* 86. *Dyer* 216. *Plow.* 268.

Note; If the Cognizor hath the Freehold of the Land, it is then called a *Fine sur Release*, and needs no Seisin upon it if the Party be in Possession. And *Note*; A Fine upon a Release may not enure to an Use. *Co. Inst.* 3. 36.

4thly,

4thly, Of the *Fine sur Concessit*.

A *Fine sur Concessit* is such a Fine as where the Conusor is seised of the Lands contained therein, and the Conusee hath no Freehold therein, but it passeth by the Fine; this Fine is said to be executory, so that the Conusee therein must enter, or have a Writ of *Habere facias Seisinam* to obtain Possession, if the Parties to whom the Estate is limited, at the Time of levying such Fine, be not in Possession of the Thing granted; but if they be in Possession at such Time, there needs not any such Writ, or any Execution of the Fine to put them in Possession, for then the Fine will enure by way of Extinguishment of Right, and doth not alter the Estate or Right of the Conusee; however it may better it.

A *Fine sur Concessit* has always been taken to be the most harmless (and of less Operation in the Law) than any other, and compar'd only to a Grant of *totum statum suum, & quicquid habet, &c.* by which no more is granted than what the Conusor had at the Time of the Grant, and consequently that it shall not work a Disseisin (to a third Person): Also, That no more shall pass by such a Fine, than what lawfully may (without Prejudice to another): And rather than it shall be construed to work a Wrong, the Estate shall pass by Fractions, and the several Interests remain separate, notwithstanding such Fine. 2 *Mod.*

Indeed there is a *Fine sur Concessit* which expresses no Estate of the Grantor, and this is properly levied by Tenant in Fee or in Tail, (and passes the whole Estate, &c.) but when particular

particular Tenants pass over their several Estates by such Fine, they generally grant *Totum & quicquid habent in Tenementis predictis*, not expressing what particular Estates they have therein. *Ib.*

Note; When this Fine was first invented, the Judges in those Days looked upon the Words *quicquid habent, &c.* to be insignificant, and therefore 17 E. 3. 66. they were rejected. Where two Husbands and their Wives levied such a Fine with those Words, and the Judge would not pass it, because if the Parties had nothing in the Land, nothing pass'd by such Fine. *Vide* 44 E. 3. 36, &c. *accord. Vide plus de hoc arguendo*, 2 Mod. 110, 111, 112, &c.

If a Fine *sur Concessit* is levied by Husband and Wife to secure a Sum of Money borrowed, and the Baron and Feme are both Tenants for their respective Lives, it would be very proper for the Mortgagee to have a Mortgage Deed for 99 Years (besides the Fine) and that the Conusors insure their Lives, Tenants attorn, a Bond to perform Covenants, and an Oath from the Mortgagor that the Premises are free from Incumbrances, and a Letter of Attorney empowering the Mortgagee to receive the Rent, if the Money is to be paid by Installments.

Now I proceed to treat of the several Parts of a Fine, *viz.*

- 1st, *The Original Writ against the Cognizor.*
- 2dly, *The Composition, or the King's Licence to alienate.*
- 3dly, *The Concord.*
- 4thly, *The Note of the Fine.*
- 5thly, *The Foot of the Fine.*
- 6thly, *Of the Proclamations.*

Of the Original Writ.

A Writ of Covenant is the usual Original Writ, taken out by the Cognizee against the Cognizor to the Fine, for without an Original Writ a Fine cannot be levied; yet tho' a Fine is usually levied upon a Writ of Covenant, it may be levied upon a Writ of Right Close, *Warrantia Chartæ*, or in any real Action, but not upon an Original Writ in any personal Action.

Salk. 340.

And tho' a common Action of Covenant is a personal Action, in which Damages are to be recovered for a Breach of Covenants, yet this Writ of Covenant which demands the Land itself is a real Action, and brought to have an Execution and Performance of the Covenants (that is to say) to render the Land to the Conizee. 5 Co. 59. Fitz. Natura Brev. 146. F. Co. 2 Inst. 514. 1 And. 71. Keil 90. 4 Inst. 407. The Writ of Covenant is in this Form:

Note, The Writ of Covenant is the same in all Cases, be the Fine of whatever Kind; for the Variation in Fines arises from the Concord, according to the various Forms thereof, but the Original Writ & Præcipe are always the same.

GEORGE the Second, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. To the Sheriff of Kent, Greeting. Command A. B. that justly and without Delay he perform the Covenant with C. D. made between them, of two Messuages, four Gardens, forty Acres of Land, twenty Acres of Meadow, and twenty Acres of Pasture, with the Appurtenances in D. and unless he shall so do, and the said C. D. shall give you Security that his Suit shall be prosecuted, then summon by good Summoners the said A. that he be before our Justices at Westminster on the Octave of St. Hilary, to shew wherefore he will not. And have

Of Fines.

have you there the Summoners and this Writ.
Witness ourself at Westminster, the
Day of in the 23d Year of our Reign.

2dly, Of the Composition, or the King's
Licence to alienate.

THE Composition, or the Money which
the King hath for his Licence to alien
the Land, is called a Composition, be-
cause the Commissioners, appointed by the
King for that Purpose, compound and make
easy the Fine or Sum of Money which is to
be paid to the King on that Occasion, and
which is called the King's Silver.

This Fine *pro Licentia Concordandi* consists
of two Sorts of Fines, *i. e.* of a present or
Pre-Fine, paid at the Time of the Commis-
sioners signing the Writ of Covenant, and of
a Post-Fine which becomes due when the Fine
is compleated, *i. e.* when the Licence to agree
is granted by the Court, altho' *ex Gratia Re-*
gis Payment is not immediately required, and
it is called a Post-Fine in respect of the first
Fine; for in every real Action of Lands or
Tenements of the yearly Value of five Marks,
there is due in the Hamper upon the Original

6s. 8d. that is for every five Marks of Land,
and if it be under, no Fine is due upon the
Original. Now, according to the first Fine,
the Fine *pro Licentia Concordandi*, or Post-Fine,
is set and is also certain, for it is as much as
the first Fine and half as much more. Ex-
ample, Where the Lands are of the Value of
five Marks, there is due 6s. 8d. for the first
Fine in the Hamper, but the Fine *pro Licen-*
tia Concordandi, or the Post-Fine (as before ob-
served) & 23 Car. 2.

The Post-Fine
is collected by
the Sheriff of
the County
where the
Land lies, of
which the Fine
was levied, to
be answered
by him into
the Exche-
quer. Stat. 22

Of Fines.

served) is not due till *Conge de accorder* (the Licence to agree) be granted, and then the Post-Fine is 10 s.

The following is the Rule that they go by at the Alienation-Office, for Payment of the Money.

The Rule for the Payment of Money in the Alienation-Office.

Every 5 Marks and 20 Shillings payeth 6 s. 8 d. From 5 Marks and 20 Shillings unto 5 Marks and 40 Shillings payeth 10 s. Above 5 Marks and 40 s. unto 10 Marks and 20 s. payeth 13 s. 4 d. So in like Proportion for all others.

		l.	s.	d.
Land rated at	40 s. or under payeth	0	0	0
	Above 40 s. to 3 l. 6 s. } 8 d. ———	0	6	8
	5 l. 6 s. 8 d. ———	0	10	0
	7 l. 13 s. 4 d. ———	0	13	4
	8 l. 13 s. 4 d. ———	0	16	8
	10 l. ———	1	0	0
	12 l. ———	1	3	4
	14 l. 6 s. 8 d. ———	1	6	8
	15 l. 6 s. 8 d. ———	1	10	0
	17 l. 13 s. 4 d. ———	1	13	4
	18 l. 13 s. 4 d. ———	1	16	8
	20 l. ———	2	0	0
	22 l. ———	2	3	4
	23 l. 6 s. 8 d. ———	2	6	8
	25 l. 6 s. 8 d. ———	2	10	0
	27 l. 13 s. 4 d. ———	2	13	4
	28 l. 13 s. 4 d. ———	2	16	8
	30 l. ———	3	0	0

And so on to a greater Progression. See the *History of the Alienation-Office*, the End of *Bacon's Works*, last Edit. Vol. 3. p. 549.

3. Of the Concord, Concordia.

THE Concord, or Agreement between the Parties that intend the Levying of the Fine, is that Instrument wherein is declared how and in what Manner the Things contained in the Writ of Covenant shall pass; and as the Writ of Covenant is the Foundation, so is the Concord the Substance of the Fine, but must contain no more Land (or other Things) than are mentioned in the Writ of Covenant. 2 Co. Inst. 513.

But in the Concord the Particulars, or Parcels mentioned in the *Præcipe*, need not be recited over again, for it will be sufficient to say,

And the Agreement is such (that is to say) that the said A. hath acknowledged the Tenements aforesaid, with the Appurtenances, to be the Right of the said B. &c.

And by these Words (the said Tenements) any Number or Quantity of distinct Things or Parcels will be well enough expressed.

But if the *Præcipe* be of entire Things, as of a Manor or Manors, with the Appurtenances, then you must express it in the Concord thus:

And the Agreement is such (that is to say) that the said A. hath acknowledged the said Manor or Manors, with the Appurtenances, &c. Neither will Messuages, named by themselves in a *Præcipe*, pass by the Word *Tenements* in a Concord: Also

An Honour, Castle, Island, Barony, Hundred, Borough, Knight's Fee, the Scite of a Manor, a Park, a Prebendary, a Rent, Common, Oblations, Toll, Stallage, Pon-
C tage,

tage, View of Frank-pledge, a Liberty, Franchise, Office, Bailiwick, Fair, Market, Passage, a Warren, Fishery, * Rectory, Tithes, the Moiety or Part of an entire Thing, a Church, a Portion of Tithes, must be particularly named in the Concord as well as in the *Præcipe*.

Note; Tho' there be divers Cognizees in a Fine, yet the Right must be limited to one of them only, and the Estate limited to his Heirs only whose Right it is acknowledged to be.

For Example, A. is Cognizor, B. and C. Cognizees:

And the Agreement is such (that is to say) that the said A. hath acknowledged the said Tenements, with the Appurtenances, to be the Right of the said B. as those which they, the said B. and C. have of the Gift of the said A. and those he hath remised and Quit-claimed from himself and his Heirs to the said B. and C. and the Heirs of the said B. for ever. And for this, &c.

It hath been said, that in a Fine from diverse the Fee must be supposed to be in one of them only, and that the Release and Warranty must be by one of the Cognizors, and from him and his Heirs only; but the Use is generally otherwise, for where there are divers Cognizors in a Fine, the Release is from them and their Heirs; and this is proper where the Cognizors are seised jointly; but if they have separate Rights it is very proper there should also be separate Warranties. See a *Precedent of a Fine from Husband and Wife, and two other Cognizors.*

* *Note;* By *Comyns* 267. it appears that the Word *Tenement* extends to a Rectory, therefore *Quare*, If a Rectory will not pass by that Word in a Concord.

'Tis

'Tis said, The Concord being the compleat Fine, it shall be adjudged a Fine of that Term in which the Concord was made, and the Writ of Covenant returnable. 1 *Salk.* 341.

And in the Case of *Warncomb* and *Carril*, cited in 3 *Mod.* 141. where the Husband and Wife levied a Fine of the Wife's Lands by *Dedimus* in *Lent* Vacation, and the Feme died before the Inrollment, yet held to be a good Fine.

And in the Case of *Ball* versus *Cock*, *Mich.* 3 *Jac.* 2. in *B. R.* where one of the Cognizors died after the Caption, and before the Inrollment at the King's Silver-Office, yet the Fine was held to be good.

And by 2 *Ld. Raym.* 850. it appears that if a Fine be acknowledged in the long Vacation, and before the next Term Cognizor dies, tho' no Writ of Covenant sued out, nor King's Silver entred, yet the Court will permit the Cognizee to enter the Fine as of *Trinity* Term preceding.

It hath been lately resolved, that a Fine should be valid and good from the Time of the Acknowledgment.

4. Of the Note of the Fine.

THE Note is taken out of the Writ of Covenant and Concord by the Chirographer before it is ingrossed. It begins thus:

Between A. B. Plaintiff, and C. D. Deforciant, &c. And recites the whole Fine or the Substance thereof; and the Note of the Fine remaining with the Chirographer, it hath been held, *est Principale Recordum.* 3 *Leon.* 234.

5. *The Foot of the Fine.*

THE Foot of the Fine includes the whole Fine. *1st*, The Parties to the same. *2dly*, The Thing granted. *3dly*, The Day, Year and Place, and before whom the Concord was made: And this is called the Foot, because it is the last Part of the Fine, and when this is done, the Fine is ingrossed of Record, and the Indentures are made and delivered to the Party to whom the Fine is levied by the Chirographer.

6. *Of the Proclamations.*

A Fine may be either with or without Proclamations; that without Proclamations is termed A Fine at the Common Law, and is levied in such Manner as was used before the 4th of *H. 7. c. 24.* and still remains of Force to discontinue the Estates of the Cognizors, if it is executed.

A Fine with Proclamations is termed a Fine according to the Statutes of the 1 of *R. 3. c. 7.* 4 *H. 7. c. 24.* 32 *H. 8. 36.* 31 *Eliz. c. 2.* And such a Fine is every Fine that is pleaded, intended to be, if it be not shewn what Fine it is; and these Fines are the best Sort and most used; and it is said to be in the Election of the Cognizee to have it with or without Proclamations, and tho' there may be Error in the Proclamations, yet the Fine is a good Fine at Common Law without Proclamations. *Jenk. Cent. Case 6. Case 35. 2 Inst. 519. 3 Rep. 86.*

A Fine may stand, tho' the Proclamations are made irregularly. *Plowd. 265.*

By the Common Law, a Fine might be levied of Land in Antient Demesne in the Court

Court of Antient Demesne, as well as a Fine of Freehold Land might be levied in the Court of Common Pleas, and the Statute of 18 Ed. 1. called *Modus levandi Fines*, does not alter the Case, for that Statute was only declarative of the Common Law; but by the Statute *de Donis* a Fine of an Estate-Tail was declared null, after which a Fine, as well in Antient Demesne, as in C. B. was not a Bar but a Discontinuance only, until the 4 of H. 7. when a Fine with Proclamations was made a Bar; but this Statute of the 4th of H. 7. does not extend to Fines in Antient Demesne; and therefore Fines there, as they do not make any Bar, yet they make a Discontinuance to the Issue in Tail, and it cannot be objected that the Court of Antient Demesne is not a Court of Record. *Comyns* 93, 94. and see 1 *Salk.* 240.

The Proclamations made upon a Fine, which altho' they be not the essential Parts of the Fine, yet upon every Fine made according to the Statute they must be made, and being made they do make a Bar according to what passes.

The Proclamations were appointed first by the Statute 1 R. 3. c. 7. tho' afore that Time, Fines were openly to be read at two certain Days in the Week, (by the Discretion of the Justices) and by this Statute of R. 3. Fines at the Common Law have the same Force they had before, and might be levied according to that Statute, or the Common Law, at the Election of the Parties.

The Proclamations were to be made four several Days in each Term, during four succeeding Terms, by the Statute 1 R. 3. c. 7. 4 H. 7. c. 27. 32 H. 8. c. 36. But by the Statute 31 Eliz. c. 2. Fines in the Common Pleas are to be pro-

Of Fines.

claimed four Times only, viz. once in the Term wherein the Fine is ingrossed, and once in each of the three succeeding Terms.

If any Proclamation be made upon a *Sunday*, it is Error, because it is not *Dies Juridicus*. *Dyer* 128.

Having thus considered a Fine in the various Kinds thereof, we shall now observe who may be Cognizors and Cognizees.

(*Note*; He who acknowledges the Fine is called the Cognizor.)

1. *Who may be Cognizors in Fines, and who cannot.*

SUCH Persons, either Male or Female, or Bodies Sole or Corporate, that may lawfully grant by Deed, and have such an Estate in the Land, as they are not prohibited by any Law to levy a Fine, may be Cognizors in Fines.

Such Civil Corporations, as have an absolute Estate in their Possessions belonging to their Corporations, as a Mayor and Commonalty, &c. may together, with a joint Consent, levy a Fine of the Land belonging to their Corporation, as a single Person may do; but no one of the Corporation, tho' he be the Head thereof, nor any of the Members without the General Consent of the whole Corporation, can levy a Fine.

Persons outlawed, or waved in Personal Actions only, may levy a Fine: And so may Persons attainted of Felony or Treason, and the Fine will be good, except against the King and the Lord of whom the Land is held. 17 *Ed.* 3. 52. 17 *Aff. Pl.* c. 21 *H.* 7. 7. 9 *H.*

6. 20. 8 *Ass.* 25. *ergo* be careful how such Fines are levied.

A Jointenant, Tenant in Common or Partner, may levy a Fine of the Lands so held by him, to a Stranger, or to another Jointenant, Tenant in Common or Partner. 26 *H.* 8. 9.

Dyer 69, 334. *Plow.* 338, 378. 4 *E.* 4. 68.

Also Tenant in Fee-Simple, in Remainder or Reversion, and Tenant for Life, it's said, may levy a *Fine sur Grant and Release, &c.* of the Lands which he holds for Life, to hold to the Cognizee for Life of the Tenant for Life, 44 *Ed.* 3. 36. But if the Estate be larger, it is a Forfeiture of his Estate. 4 *H.* 7. *Noy* 30.

And so the Law is the same of such Fines by Tenant in Tail after Possibility, Tenant in Dower, or by the Curtesy. 39 *E.* 3. 16. And Spiritual Persons may levy Fines of Land in their Right only, and not belonging to their Churches, &c.

Note; A Fine may be levied by a Feme Covert, and 'tis only voidable by the Husband, and not by her after his Decese. See *Title Baron and Feme* in this Treatise.

The Court may order a Feme Covert, tho' an Infant, being an Heir or Trustee, to levy a Fine pursuant to 7 *Ann.* 19. *Comyns* 615.

Who may not be Cognizors in Fines.

THOSE that are not admitted to levy Fines, are such as * Infants, † Women-Covert, ‡ Ideots, or Lunaticks; one that is

* See the last Note above.

† See *Baron and Feme*, and Note above.

‡ See 2 *And.* 163. where a Fine levied by an Ideot was held good, for both he and his Heirs are estopped to say he was an Ideot.

blind, deaf and dumb, one that is doting in old Age, or wants Discretion, or one that is much in Drink, or compelled by Duress or Imprisonment; and in some Cases it is left to the Discretion of the Judges or Commissioners whom to admit; for tho' many of these have the Liberty of Exception against such a Fine; yet it may happen not to be in their Power to avoid it; *Fieri non debet, sed factum valet*; of which more hereafter.

No one of a Civil Corporation, tho' he be the Head thereof, nor any of the Members of a Corporation, without the general Consent of the whole, can levy a good Fine.

Also Bishops, Deans and Chapters, Heads and Fellows of Colleges, and such like, who have any Estate of Freehold in Ecclesiastical Lands, in Right of their Churches, are forbidden and restrained by divers Acts of Parliament from levying any Fines of those Lands belonging to them. 21 E. 4. 13. *Plow.* 11, 78, 122, 124, 538, 575. 11 Co. 78.

Also he that hath an Estate-Tail of the King's Gift or Provision, cannot levy a good Fine of it, to bind the King, or to bind the Issue in Tail, by 32 H. 8. cap. 28.

Also a Fine levied by the Heir that is an Intruder upon the King's Possession, is void. 1 H. 7. 5. 24 Ed. 3. 65.

Also Fines levied of any Lands prohibited to be sold by Act of Parliament, are void. Statute 32 H. 8. c. 36, and 28. And he that hath an Estate in Fee-Simple, Tail, or for Life, in Land, in Right of his Wife, cannot levy a Fine without her Consent. *Ibid.*

2. Who may be Cognizees.

THE Cognizee is the Person to whom the Fine is acknowledged. Any Person that hath a Capacity to take by the Grant of a Deed, so as to be a good Grantee, such Person may be a good Cognizee in a Fine: So any Man or Woman, Sole or Covert, of full Age, or under Age, any mad or lunatick Person, Ideot, or a Man of unsound Memory, and any Man in and out of Prison, or beyond Sea, any Person attainted of Felony or Treason, or outlawed in a personal Action, a Bastard, a Clerk convict, an Alien; any of these may be a good Cognizee, and take by a Fine as well as by Deed: And a Fine levied to any such Person will be good. 50 E. 3. 9.

3 H. 6. 42. 24 E. 3. 62. See *Fortescue* 192.

So Corporations Spiritual and Temporal, Civil or Corporal, may be Cognizees in Fines, and Fines levied to them will be good.

But before the ingrossing of such a Fine, there always issues a Writ to the Justices of the Common Pleas, in the Nature of a Warrant, for them to pass the same.

If an Infant or Feme Covert be to take by Fine, he or she need not be examined, as when they are Cognizors in a Fine. 24 Ed. 3.

62. 3 H. 6. 41.

Persons who in Law are accounted civilly dead, as Monks, Friars, and the like, may neither be Cognizors nor Cognizees in Fines, nor will a Fine levied by or to any of them be good. 22 Ed. 4. 4. 15 Ed. 4. 21. 5 H.

7. 25. 19 H. 6. 25.

By

Note 3. A Fine was to be acknowledged by one deaf and dumb, and upon his Wife's making it appear to the Court that she could converse with him by Signs, and give evident Proof of his Consent to what was proposed to the Satisfaction of the Court, the Fine was ordered to pass. Trin. 7 G. 1. *Keep versus Bull & Ux.*

By what Names Cognizors and Cognizees
may give and take in a Fine.

Cognizors and Cognizees must be called by their right Names of Baptism and Surname; and if there be two of one Name they must be distinguished by the Distinction of Elder and Younger, &c. But Kings, Queens, Princes, Dukes, Marquisses, Earls, Viscounts or Barons, are seldom named by their Surname, but by their Christian Name and Dignity.

But Knights, Esquires and Gentlemen, are called by their Christian Name and Surname, together with their Additions of Honour, as *A. B. Baronet, C. D. Knight, E. F. Esquire, G. H. Gentleman, &c.* And the Addition of Bishop, Dean, Prebendary, &c. it is said, are rather used out of Courtesy than Necessity, for the Fine may be good without it. 21 E.

4. 8. 1 Aff. pl. 11. 7 H. 4. 22. 14 H. 6. 15. Brownlow 30.

A Corporation or Fraternity must be described by the very true Name of the Corporation, as it is named in the Charter and Foundation of it. 11 H. 4. 44. 12 H. 4. 20. 7 H. 6. 27. 37 H. 6. 29.

It is said some small Difference in a Name will not hurt, as *Margery* for *Margaret*, *Agnes* instead of *Anne*: But yet a Fine levied to *A.* and *Sibel* his Wife, where her right Name was *Isabel*, was held void. 1 Aff. pl. 11. Bra. 344.

But if a Fine be levied by a Man and his Wife, and the Wife is named wrong, it is said this Fine shall bind her by Estoppel.
Bro.

Bro. 344. Case—. Yet if a Woman have two Husbands living, and with her second acknowledges a Fine by his Name, this Fine it seems is void; but if a Woman levy a Fine with her right Husband, and by a wrong Christian Name, she cannot avoid such a Fine.

Bro. Fines 17. 1 Aff. pl. 7. 7 H. 4. 22.

By what Names the Things whereof a Fine is to be levied, may pass, and how the Parcels are to be placed therein.

AND here we would beg Leave to observe, That a Fine may be levied of all Things whereof a *Præcipe quod reddat* lies, as of Manors, Messuages, Lands, Rents, &c. or of any Thing whereof a *Præcipe quod faciat*, or a *Præcipe quod permittat*, or a *Præcipe quod teneat*, may be brought. It may be levied of ^{2 Inst. 513.} Things Ecclesiastical or Temporal, that are inheritable and *in esse* at the Time of levying the Fine; therefore a Fine may be levied of an

Honour,	Parsonage,
Castle,	Rectory,
Manor,	Advowson,
Inland,	Vicarage,
Barony,	Tithes impropriate,
Messuage,	Estovers,
Cottage,	Foldage,
Land,	Corody,
Meadow,	Office,
Pasture,	Fishing,
Wood,	Warren,
Underwood,	Fair,
Chapel,	Mine,
River,	View of Frank Pledge,
Chauntry,	Waif,

Stray,

Stray,	Hundred,
Mill,	Way,
Toft,	Ferry,
Curtilage,	Franchise,
Dove-House,	Seigniorie,
Garden,	Reversion,
Orchard,	Toll,
Felons Goods,	Tollage,
Deodand,	Picage,
Hospital,	Pontage,
Furzes,	Acquittal,
Heath-Ground,	Services,
Moorish-Ground,	Portion of Tithes,
Rent,	Oblations, and the like.
Common,	

Many of these may be granted together in one Fine, as 20 Messuages, 10 Tofts, 100 Acres of Land, 100 Acres of Meadow, &c. and 20 s. of Free Rent: So of a Dove-house, 3 Gardens, 2 l. 6 s. 4 d. Rent, and of the Rent of four Capons, one Pound of Wax, and the like, as Occasion requires, as may be noted from the Precedents.

Demesnes, Rents, Seigniories, Courts, Pleas, &c. whereof a Manor consisteth, pass by the Name of a Manor with the Appurtenances.

Note; The Nature and Quality of the Things must also be observed, as Land, Meadow, Pasture, &c.

Also, the more worthy Things must be put first; as a Castle before a Manor, a Manor before a Messuage, a Messuage before Land, Arable before Meadow; Things general before Things special, as before Meadow, Pasture, Wood, Heath, Marsh, &c. must be placed Land, being the *Genus* thereto.

So

So Wood must precede Elder-wood; Willow-wood, &c. as Wood is the *Genus* to Willow-Ground.

For the placing of Particulars in a Writ of Covenant, it is in all Respects as in a *Præcipe quod reddat* of Lands, and the Rule in the Register, f. 2. is thus, viz.

Messuage, Toft, Mill, Dove-house, Garden, Land, Meadow, Pasture, Wood, Heath-Ground, Moorish-Gound, Marsh-Land, Elder-wood, a Filhery, Suit, Priory: Also intire Things must be set before their Parts, as of the Manor of G. before the Moiety of the Manor of B. with the Appurtenances: Thus

Of the Manors of A. and D. with the Appurtenances, and 100 Messuages, nine Mills, 10 Gardens, five Orchards, 100 Acres of Land, 50 Acres of Meadow, 60 Acres of Pasture, with the Appurtenances in A. H. and N. Moreover of the Rectories of G. and H. with the Appurtenances; and also of a Moiety of the Manor of W. with the Appurtenances; and unless, &c.

Parts of Things excepted must succeed those Things out of which they be excepted; and if there be divers Parcels in one Writ, that Parcel out of which the Exception is to be made, ought to be last placed; and the Exceptions must be always of such Things as will lie in the Writ, and of such Thing as is com-
prehended in the Writ: For Example, Com-
mand A. B. that he justly, &c. perform to C. D.
the Covenant, &c. one Messuage, one Cottage,
and the Moiety of one Messuage, and ten Acres
of Land, with the Appurtenances in E. except
one Acre of Land in E. and unless, &c. And
in the Concord you say

And

Reg. Orig.
228, 229.

And the Agreement is such, that the said A. hath acknowledged the said Tenements, with the Appurtenances (except before excepted) to be the Right, &c. Another Example,

Of the Manor of A. with the Appurtenances in C. except one Messuaga, two Acres of Land, and the Advowson of the Church of C. Here Note, That every Thing excepted ought to be certainly named, but without the Words *with the Appurtenances*, for these are only used after the Things granted.

If a Manor extends itself into divers Towns, as A. B. C. it is the best and safest Way to name all the Towns, or none of them at all; as of the Manor of D. in C. as above; or as of the Manor of S. in A. B. and C. or of the Manor of S. with the Appurtenances; for if any of the Towns be omitted, none of the Manor in that Town will pass; but if the Manor be only named, and not said in what Town it doth lie, the Fine may be good. 9 E. 4. 6.

Also where divers Manors be of one Name, with Distinction of North and South, as North S. and South S. it is good in all the Proceedings of the Fine, to express which of the Manors are intended to be passed. 1 Cro. 196. Bra. Fines 44, 91.

One Manor may also be Parcel of another, and pass by the Name of that Manor. 20 Aff. pl. 54.

Also a Castle, Honour or Hundred, may be Parcel of a Manor, and pass by the Name of that Manor whereof it is Parcel, or it may pass by its own proper Name, as of the Castle of A. with the Appurtenances, or of the Honour of A. 1 E. 3. 4. 2 E. 3. 36. 20 Aff. pl. 54.

Certain

Certain and apt Words must be used to express the Things to pass by the Fine; for a Fine levied of a Tenement, or of an Hereditament, or of two Tenements, is void, at least voidable for Error, because of the Uncertainty and Unaptness of the Words, 1 Cro. 196. Leon. 188. for the proper Word to express a Tenement or Hereditament in a Fine is, Messuage, or two Messuages, &c.

So a Chapel or Hospital, will pass by the Name of a Messuage. 13 Aff. 2.

By the Name of a Messuage, with the Appurtenances, a Fine may pass an House with a Shop, Curtilage, Garden, Orchard; also a Dove-house and Mill, as Parcel thereof. Brañ. lib. 5. c. 28. Sect. 1. Plow. 169, 170, 171.

So by the Name of a Cottage, a Toft, a Chamber, a Cellar, &c. And yet these may pass alone by their own single Names of a Messuage, a Curtilage.

When a Fine is but for the Presentation of a Church only, it must be of the Advowson, or of the Vicarage of the Church of D. and not with the Appurtenances.

And of Vicarages endowed, the Writ must be of the Advowson of the Vicarage of the Church of D. and not with the Appurtenances: And when the Vicarage is not endowed, it must be thus, Of the Advowson of the Church of D. And Parsonages, Rectories, Advowsons, Vicarages, and Tithes impropriate, pass not by the Words, Of the Advowson of the Church of D. but by these Words, Of the Rectory of the Church of D. with the Appurtenances. West. Symb. 2 Part.

Note; An Advowson will pass the Presentation to a Rectory, as well as a Vicarage, by the Words, Advowson of the Rectory of the Church

Church of *D.* And Part of an Advowson may pass by the Words, Of the Moiety of an Advowson, which is the Right of presenting alternatively.

High-wood and Under-wood pass by the general Name of Wood, as of 20 Acres of Wood. *West. Symb. 2 Part.*

House-boot, Hay-boot, and Plow-boot, by the Name of Estovers, as of reasonable Estovers in Wood (to wit) in ten Acres of Wood of the said *A.* in *D.* *West. Ibid.*

A Fishery may pass by the Name of a separate Fishery in the River of *S.*

A Foldage will pass by the Name of the Liberty of a Foldage and Sheep-Course, with the Appurtenances in *D.* or of a free Foldage of Sheep, with the Appurtenances in *D.* or of a free Fold-Course.

Note; This Case is also reported in *Ventris.*

The County, Town, Parish, or Hamlet, where the Things lie, that are intended to pass by the Fine, ought to be certainly named; for in the Case of *Stock* and *Fox*, 2 Crook 120. there were two Towns, viz. *Walton* and *Street*, in the Parish of *Street*, and a Fine was levied of Lands in *Street*, and it was agreed, that the Lands in *Walton* would not pass by this Fine, *Walton* being a distinct Town or Village by itself; and altho' *Street* the Parish doth comprehend both, yet in the Fine the Lands in *Walton* shall not be said to be comprised, unless *Walton* hath been a Hamlet of *Street*, and that the Fine had been levied of Lands in the Parish of *Street*, and then all would have passed well enough. From this Case it may be noted, That if there be divers Towns of one Name in the same County, it is best to make an Addition for Distinction.

Part

Part of an entire Thing may pass by the Words, *Of a Moiety, or third Part, or of two Parts in three to be divided* (as the Case is): So of a Moiety of all the Tithes of Corn and Hay of the Land called *B.* with the Appurtenances in *H.*

Where a Fine is to be levied of Part of a Manor only, yet that Part must pass by the Name of the whole, as of the Manor of *D.* with the Appurtenances: So if a Messuage and ten Acres of Land be parted, the Part divided may pass by the Name of one Messuage, and (three Acres of Land, or as many as are parted) and not of a Moiety of a Messuage, and ten Acres of Land.

A Fine of a Mill is good without describing it, whether it be a Wind-mill or a Water-mill, but the latter is most usual. 44 *E. 3. f. 13.*

Land may be demanded by a certain Number of Acres, as of ten Acres of Land, 20 Acres of Meadow, 200 Acres of Pasture, or by the certain Measure of the specifical Quantity thereof, as of a Hide, or an Acre, or a Rood, or the Perch, or Parts thereof. So Wood, Underwood, Heath, Moorish Ground, Marsh Ground, may be demanded by the Number of Acres thereof. 16 *Aff. 9.*

Turbary may be demanded by the Name of Moorish Ground, for it is only the Right of digging Turf: Rent may be demanded by the Quality of the Things to be rendred with the particular Quantity, as ten Pounds, ten Marks, twelve Shillings, Sixpence Farthing. 21 *E. 3. 44.*

It is usual to insert more Number of Acres in a Fine than are intended to pass; and this will not hurt, as no more passes than what is agreed between the Parties. *Poph. 105.*

Of the Manner of passing of Fines.

PROCEED I in the next Place to give such plain Directions for the Acknowledging and Levying of Fines, with an Account of the exact Fees to be paid at the several Offices thro' which the Fine must pass, as will enable even a young Clerk to transact this kind of Business with Ease and Expedition, with proper Notes.

First, Of Suing out and passing a Fine at the Bar, whereby several Fees and Charges are saved.

YOU must draw a *Præcipe* on Paper for the Cursitor of the County where the Lands lie, to make out the Writ of Covenant: And here observe, That if the Lands lie in several Counties, there must be several Writs of Covenant, returnable all at one Day, tho' one Concord may be of Lands in several Counties. You pay the Cursitor for the Writ of Covenant 7s. 6d. and when you have received it from him sealed, then ingross a *Præcipe* and Concord thereof on Parchment, and take the Cognizors down with you to the Court of Common Pleas Bar, at *Westminster*, (which is the only Court at *Westminster* for suing out Fines, on Account of the Solemnity thereof, and thither they must be certified; see 18 Ed. 1. called *Modus levandi Fines*) and deliver the *Præcipe* and Concord, with the Writ of Covenant, to one of the Serjeants at the Bar, who after calling King's Silver, will deliver over the

the Writ of Covenant to the Secondary; and if any of the Cognizors be Females Covert, or married Women, take the *Præcipe* and Concord from the Serjeant, and go with her to the *puisne* Judge of the Bench, and deliver the *Præcipe* and Concord to him, and he will privately examine her, whether she consents to part with her Right in the Land, and whether she does it freely, or by Compulsion; and then the *Præcipe* and Concord is delivered to the Prothonotary to be recorded: Next pay the Fees of the Court, which are about 5*s.* 6*d.* and then take the *Præcipe* and Concord, and annex thereto the Writ of Covenant, and pass it through the several Offices, as hereafter is directed, under the Head of Compounding a Writ of Covenant, the Alienation-Office being the next.

How to acknowledge a Fine before the Lord Chief Justice, or elsewhere before him out of Court.

YOU first draw your *Præcipe* and Concord on Paper; and for Dispatch, write the Caption underneath it yourself, on the Left-Hand, thus, *Taken and acknowledged on the 6th Day of August in the twenty-fourth Year of the Reign of his present Majesty George the Second, King of Great Britain, &c. Before me* *J. Willes.*

And ingross another in like Manner on Parchment, to both which the Cognizors must subscribe their Names on the Right-Hand. Go with the Cognizors to my Lord Chief Justice's Chambers in *Serjeants-Inn*, and let them acknowledge the Fine before him, and pay his

Note; Tho' a Fine pre-supposes a Writ of Covenant, yet you may acknowledge the Fine first, and afterwards sue out your Writ of Covenant.

Lucas 43. See p. 48 in this Treatise.

his Clerk 115. 8*d.* and then my Lord's Clerk will get his Lordship's Hand to the Caption of the Concord ingrossed on Parchment, and also to the Caption thereof on Paper, which is to be left at my Lord's Chambers; but the Parchment one you must take away, and carry to the proper Curfitor, and he will make out your Writ of Covenant, which you must pass as after directed.

Note, That the Lord Chief Justice of the Court of Common Pleas hath Power to receive and certify the Acknowledgment of all Manner of Fines *ex Officio*, as well in Court as out; and two of the Justices of the same Court have Power so to do in open Court. *Jenk. Cent. Cases, 4. Case 28.*

Also the other eleven Judges, and in their Absence a Serjeant at Law, may take the Acknowledgment of a Fine; yet they do not certify without a special Writ of *Dedimus potestatem*; but being Persons so much esteemed in the Eye of the Law, they take the Acknowledgment of a Fine without a *Dedimus* first made out; and after the Fine is acknowledged the Party sues out a *Dedimus*, whereupon they return the *Præcipe* and Concord, by way of certifying in what Manner the Fine was acknowledged; so that the *Dedimus* is rather to ratify and make compleat what before was done for Expedition Sake, and for the Ease of the Party, *nunc pro tunc*.

Before Justices of Assize on the Circuit.

YOU draw a *Præcipe* and Concord on Paper and Parchment, as last above directed, and go with the Cognizors before a Judge, and let them acknowledge the Fine before

fore him; pay his Clerk 13s. After acknowledged, take the *Præcipe* and Concord ingrossed on Parchment back with you, and when the Judge comes to Town, carry it to the Curfitor where the Lands lie, and bespeak a *Dedimus*, directed to the Judge who took the Acknowledgment, whose Clerk will return the Substance of the Concord on the Back of the *Dedimus*; for which Return he takes 1s. 6d. then get your Writ of Covenant, and pass it as after directed.

Note; Tho' Justices of Assise, who are by Commission, may by the general Words of their Patent take the Acknowledgment of Fines; yet they never certify without a *Dedimus*.

Of Acknowledging a Fine before Commissioners.

MAKE a Copy of the *Præcipe* on Paper, with the Commissioners Names under, one and the first whereof must be a Knight or Serjeant at Law; but this is for Conformity, for two of the other Persons named in the *Dedimus* may take the Acknowledgment of the Fine; then carry the *Præcipe* to the Curfitor of the County, who will thereby make out * a *Dedimus potestatem* thereon, and deliver it to you sealed, for which you pay him 1l. 5s. 8d. and for a private Seal 8s. more.

* *Note*; The Statute 15 Ed. 2. allows the *Dedimus potestatem* to Commissioners; and if they take a Fine corruptly, the Court will fine them; for in relation to the Fine (the proper Business of the Court) they are subject to the Censures of it, as Attornies, &c. 2 Vent. 30. Tho' most Fines are taken by *Dedimus*, yet they are recorded as taken in Court, to prevent Questions about Captions. Lucas 45.

Of Fines.

Then deliver the *Dedimus*, *Præcipe* and *Concord*, ingrossed on Parchment, to the Commissioners; and the Acknowledgment being duly taken, the Commissioners must return the *Dedimus* thus, *The Execution of this Commission appears in a certain Schedule hereto annexed*: And then file the *Præcipe* and *Concord* to the Writ of *Dedimus*, with an Affidavit made and filed next after the Writ of *Dedimus*, of the due Acknowledgment of the Fine thereto annexed, pursuant to the Rule of *Hil.* the 17 of *G.* 2.

The Form of the Caption is as followeth:
Taken and acknowledged the 16th Day of August in the twenty-fourth Year of the Reign of his present Majesty George the Second, King of Great Britain, &c. Before

A. B.
 C. D.

Note; Where there are several Cognizees, the Commissioners may take the Acknowledgments together at once, or at different Times, and in several Places, as they please. See the *Precedents*.

In the Common Pleas.

Affidavits of
 the due Cap-
 tion of a Fine.

A. B. of — in the County of — one of the Attornies of his Majesty's Court of — and one of the Commissioners named in the Writ of *Dedimus Potestatem* for taking the Acknowledgment of the Fine hereunto annexed, maketh Oath and sayeth, That he knows C. D. and E. his Wife, the Conusors named in the said Fine; and that the same was duly signed and acknowledged by them before this Deponent and J. L. Gentleman, another Commissioner named in the said Writ; and that the said C. D. and E. his Wife,

Wife, and also this Deponent, and the said J. L. were, at the Time of taking and acknowledging the said Fine, all of full Age and competent Understanding: That the said E. was solely and separately examined apart from the Husband, and freely and voluntarily consented to and acknowledged the said Fine; and that the said Cognizors, and each of them, knew the same to be a Fine to pass his and her Estate and Estates.

If the Affidavit is not made by a Commissioner, it must be thus:

In the Common Pleas.

A. B. of—in the County of—one of the Attornies of the Court of—maketh Oath and saith, That he knows C. D. and E. his Wife A. B. and H. his Wife, the Conusors named in the Fine hereunto annexed; and that the said Fine was duly signed and acknowledged by them in this Deponent's Presence; and that they the said C. D. and E. his Wife, and A. B. and H. his Wife, and also C. S. and J. L. Gentlemen, the Commissioners taking the same Fine, were at the Time of taking thereof all of full Age, &c. as before.

If there be only one Conusor and his Wife, say, And each of them—

Your Dedimus being returned, carry it and the Caption, to a Judge of the Court of Common Pleas at his Chambers, for his Allocatur, for which pay 4 s. and if the Parties live in Town, you must pay 1 s. more for swearing the Affidavit of the Acknowledgment.

After this carry the Dedimus, Caption, &c. to the Cursitor in order for a Writ of Cove-

Of Fines.

nant, for which he takes 7s. 6s. and then pass the Fine according to the following Directions: *Note*, That Commissioners must return their *Dedimus*, with the Concord annexed within a Year after taking the Conuſance at fartheſt, or it will not paſs; and if they reſuſe to return or certify, the Party grieved may have a Writ called *Cognitionibus Admittendis*, or a *Certiorari*, to compel the Commiſſioner, in whoſe Cuſtody it is, his Executors or Adminiſtrators, to certify it.

A *Dedimus Potestatem* is no Part of the Fine; and if Lands lie in ſeveral Counties, you may ſue out a *Dedimus* from the Curſitor, of which of the Counties you pleaſe, but muſt ſet forth in the *Præcipe* what Lands lie in one County, and what in another, and afterwards muſt ſue out ſeveral Writs of Covenant, as before obſerved.

Of Compounding a Writ of Covenant.

WHEN you have got this Writ from the Curſitor, carry the ſame to the Alienation-Office in the *Temple*, to be compounded by the Commiſſioners, who attend in Term-Time at the Alienation-Office from Ten to Twelve in the Morning, and for one Week after every Term; but in the Vacation you muſt go to their Houſes, and get it compounded, and carry it afterwards to the Alienation-Office to be entered with the Receiver of the King's Fines, in the Books kept for that Purpoſe. I take the Rule for ſetting the Fine to be 10s. for every 100 Acres, and 6s. 8d. for every Meſſuage without Land, except the Premiſſes are in *London*, and then it is 20s. for every Meſſuage, unleſs the Rack-Rent is

is sworn to before the Commissioners: And in all Cases, if you think the Fine is set too high, let your Client make Affidavit of the Rent, either by a personal Attendance upon the Commissioners, or by Affidavit before a Judge, or a Commissioner of the Court of Common Pleas in the County, and then the Commissioners will proportion the Fine accordingly.

After your Writ of Covenant has lain some Time in this Office, get the Curstitor to mark the King's Fine, then carry it to Mr. Johnson at the Return-Office in the Temple, (who is Deputy on Record for all the Sheriffs in England) and pay 1s 6d. and if the Premises are in London or Middlesex (tho' joined with Lands in any other City or County) you must leave there a Note where they lie, the Tenant's Name in Possession, and the Name and Place of Abode of the Person who will pay the Post-Fine, according to the Rule of C. B. made 6 W. & M. The Writ having lain in the Return-Office two Days, take it away, and then you must make a Warrant of Attorney on Parchment, in this Manner:

Trinity Term 23 Geo. 2.
Kent, to J. L. (the Comisee) puts in his Stead
wit, J. C. S. his Attorney, to prosecute a
Writ of Covenant against W. P. Gentleman, and
M. his Wife (the Cognizors) of Lands and Tene-
ments in D. and S.

File this Warrant with the Clerk of the Warrants in Symonds's Inn, and he will mark your Writ of Covenant, which you must carry with you for that Purpose: Pay him 4d.

The

Of Fines.

The next Office (in order to the further perfecting the Fine) is the *Custos Brevium's*, N^o. 13. *Brick-Court* in the *Middle-Temple*, who makes from the Writ of Covenant, which you leave with him, an Entry of the Plaintiff and Defendant's Names, and Place where the Lands lie, in Books kept for that Purpose, for which you pay him 3s. 8d. and if it be after the *Essoin-Day* of another Term, you must pay him 1s. 8d. more, and so 1s. 8d. for every Term but the first, for a *Post Terminum*: Three Days after carry the *Dedimus* and Caption to the same Office, for the Proclamations to be indorsed, and take the Covenant (after you have examined the same with the Clerk) from this Office; then annex them all regularly together, to wit, first the Writ of Covenant, then the *Dedimus* (if by *Dedimus*) next the Affidavit of the due Acknowledgment of the Fine, and last of all the *Præcipe* and Concord, and carry them to the King's Silver Office in *Crown-Offices-Row* in the *Inner-Temple* (pay 1s. 8d.) and there they make an Entry (upon Record) of the Writ of Covenant, the Day of the Caption, the Fine to the King, &c. and deliver Duplicates of those Entries to the Clerk of the Warrants and Inrollments, who enters the same upon *Estreat-Rolls*, which are by the *Puisne Judge* of the Common Pleas, and the said Clerk of the Warrants, carried up into the Exchequer for Process to be made out to the several Sheriffs of the respective Counties where the Lands lie, to levy the Post-Fines.

When your Fine has lain at the King's Silver Office three Days, you must carry them to Mr. *Briscoe* at the Chirographers Office in *Hare-Court*, *Inner-Temple*, who examines and enters the Fine in his Book, pay for the same in
Term.

Term-Time 5s. 8d. in the next Vacation 6s. 2d. and if it be of another Term, you pay 1s. 8d. more for a *Post Terminum*, &c. and he will afterwards deliver your Fine to the Clerk of the County where the Lands do lie, who will make a Pair of Indentures and deliver you the same if you call about a Fortnight after; you pay for the Indentures according to their Length, commonly about 5s. or 6s. Give the Indentures to your Client, and you have finished the Fine.

Note: The King's Silver Office is the proper Office to search for a Fine, and also the *Custary Brevium*'s. Indeed you may search at the Chirographer's, which is the cheapest; but I take it with more Certainty at either of the other Offices, because a Fine may have passed those Offices, and yet not be brought to the Chirographer's when you search for it.

If you have Occasion to give a Fine in Evidence, get a Copy thereof, and the Proclamations thereon, from the Chirographer's Office, and examine it yourself, and then you can prove it on the Trial. Some Attornies indeed only get the Proclamations indorsed on the Indentures of the Fine, but several think the other the safer Way.

Please to observe, that Lands bought of divers Persons by several Purchasers will pass in one Fine to save Charges, (but the Curritor will insist on an Affidavit, that one of the Purchases don't exceed 150l. and the other 50l.) and then the Writ of Covenant must be brought by all the * Vendees against all the

* I have been informed, that some Gentlemen use this Method, viz. to have but one Conussee in such a Fine, tho' they make all the Vendors Conusors, and so have a Deed to declare the Uses.

Ven-

Of Fines.

Vendors; and every Vendor must warrant against him and his Heirs only; and these joint Fines are reasonable where the Purchases are of small Value.

See a Deed to lead the Uses of a joint Fine in this Book.

Note; A Caveat to hinder the Passing of a Fine, is entred at the Judges Chambers and King's Silver Office; and then Notice is given as desired. But such Caveats must be renewed every Year. See Recovery.

Quare, If a Judge take the Conusance of a Fine, and before it be certified the King demise, and the Judge have Notice of this, can the Judge in such Case certify; for his Patent is at an End?

Quare also as to Commissioners to take a Conusance by Ded. Pot.

In order to make this Treatise still more useful, I have here set forth several Bills of Costs touching the Passing of Fines.

A Bill of Costs of a Fine acknowledged at the Bar.

Attending to take Instructions		
and perusing Deeds, and taking out Parcels,		0 6 8
Horse-hire, Journey and Expences,		
Drawing Præcipe and Copy for the Curllitor,		0 3 4
Writ of Covenant and Fee		0 14 2
Drawing and engrossing Præcipe and Concord, and Parchment,		0 10 6
Paid the Fees of Court,		0 15 6
Attending at Westminster,		0 6 8
Pre-fine,		
Alienation Fees and Expedition,		0 3 6
Attend		

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Attend the Commissioners to com- pound the Pre-fine, — — — — —	0	6	8
Affidavit of Rack Rent, &c. — — — — —			
Return Writ of Covenant and Ex- pedition, — — — — —	0	2	0
Warrant of Attorney and filing, — — — — —	0	1	4
Paid <i>Custos Brevium</i> and Expedition, — — — — —	0	4	2
King's Silver and ditto, — — — — —	0	2	8
Chirographer, — — — — —	0	7	2
Indentures and Expedition, — — — — —	0	5	6
Fee, Attorney and Agent, and pas- sing, — — — — —	0	13	4
Term Fee, — — — — —	0	6	8
Letters, &c. — — — — —			

Sometimes there are Affidavits to satisfy Curfitor, that the Premisses are only one Concern; when 'tis so, you charge for them about 5*s.* each.

A Bill of Costs of a Fine acknowledged before the Lord Chief Justice at his Chambers, or elsewhere out of Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
A ttending to take Instructions, and perusing Deeds, and taking out Parcels, — — — — —	0	6	8
Here charge for extraordinary Trouble, &c. — — — — —			
Drawing and engrossing <i>Præcipe</i> and Concord, to take the Cap- tion and Parchment, — — — — —	0	10	6
Lord Chief Justice's Fee for Ac- knowledgment, — — — — —	0	11	8
Attending, — — — — —	0	6	8
			Drawing

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Drawing <i>Præcipe</i> and Copy for } the Curfitor, ———— }	0	3	4
Writ of Covenant and Fee, ————	0	14	2
Pre-fine (according to the Value of } the Land,) ———— }			
Alienation Fees and Expedition, ————	0	3	6
The rest as before.			

A Bill of Costs when the Fine is acknowledged before a Judge.

See the Beginning of the first Bill as to Attending, and extraordinary Charge, &c.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
D rawing and engrossing <i>Præcipe</i> and Concord, and } Parchment, ———— }	0	10	6
To the Judge for his Fee, taking } the Acknowledgment, ———— }	0	13	0
Fee attending, ————	0	6	8
Drawing <i>Præcipe</i> and Concord, and } Copy for Curfitor, ———— }	0	3	4
<i>Dedimus Potestatem</i> and Fee, ————	1	12	4
Private Seal more, ————	0	8	0
Paid the Judge's Clerk for return- } ing the <i>Dedimus</i> and Attendance, }	0	5	0
Writ of Covenant and Fee, ————	0	14	2
Pre-fine, ————			
The other Fees as in the preceding Bills.			

A Bill

A Bill of Costs for Levying a Fine by De-
dimus.

-Note; See the Beginning of the first Bill for
extraordinary Trouble.

	l.	s.	d.
D rawing <i>Præcipe</i> , ————	0	2	0
Copy for Curfitor, ————	0	1	0
<i>Dedimus Potestatem</i> and Fee, ————	1	12	4
Private Seal more, ————	0	8	0
Drawing and engrossing <i>Præcipe</i> } and Concord, and Parchment, }	0	10	6
Commissioners for taking Ac- } knowledgments, 6s. 8d. each, }	0	13	4
<i>Note</i> ; Besides any extraordinary Charge and Trouble, you charge as last above.			
Drawing Affidavit of Caption, Du- } ty and Oath, ———— }	0	5	0
Carriage to <i>London</i> , ————	0	5	0
Judge and attending for <i>Allocatur</i> , —	0	7	4
Writ of Covenant and Fee, ————	0	14	2
Pre-fine (according to the Value of } the Land,) ———— }			
Alienation Fees and Expedition, —	0	3	6
Attending Commissioners to com- } pound the Pre-fine, ———— }	0	6	8
Returning Writ of Covenant and } Expedition, ———— }	0	2	0
Warrants of Attorney and filing, —	0	1	4
<i>Custos Brevium</i> and Expedition, ————	0	4	2
King's Silver and ditto, ————	0	2	8
Chirographer, ————	0	7	2
Indentures and Expedition, ————	0	6	0
Fee, Attorney and Agent, and pas- } sing, ———— }	0	13	4
Term Fee, ————	0	6	8
Letters and Inclosures, ————	0	2	6

Note;

Note; The common Practice is, for the Conusor to acknowledge the Fine before the Original sued out; and if the Conusor dies before the Writ of Covenant sued out, yet the Fine shall stand. 2 *Vent.* 47. And the Original may be sued out and made returnable of a Term precedent to the Conusance; and this is allowed for the Sake of Expedition.

A Fine was stopped at the King's Silver Office for want of the usual Affidavit, a Year being lapsed since the Date of the Caption. The Court, upon inspecting the Writ of Covenant and Conusance, made a Rule upon the Clerk of the King's Silver Office, to shew Cause why the Fine should not pass, and upon hearing Counsel for the Conussee and the Clerk of the said Office, and it appearing that all the Parties were alive at the Time when the King's Silver was paid, the Fine was ordered to pass; and the Court said, That all the Affidavit which ought to be required at the King's Silver Office should be, that the Parties were alive at the Time the King's Silver was paid, which is the Pre-fine. *Mich. 7 G. 2. Gregory Conussee, and Croucher and others Conusors.*

In the next Place I proceed to the Forms of *Præcipes* and Concords, but first I shall observe the Form of each of the four Sorts of Fines beforementioned.

1st, The Form of a Fine *sur Cognizance de Droit come ceo, &c.*

Kent, to Command A. B. that he justly and
 wit. C without Delay perform to C. D.
 the Covenant made between them, of one Mes-
 suage, two Gardens, twenty Acres of Land, ten
 Acres

Acres of Meadow and ten Acres of Pasture, with the Appurtenances, in D. And unless, &c.

*And the Agreement is such, (that is to say) That the said A. hath acknowledged the said Tenements, with the Appurtenances, to be the Right of the said C. as those which the said C. hath of the Gift of the said A. and those he hath remised and quit-claimed from him and his Heirs to the aforesaid C. and his * Heirs for ever. And moreover, the said A. hath granted for himself and his Heirs, that they will warrant to the said C. and his Heirs the Tenements aforesaid with the Appurtenances, against him the said A. and his Heirs for ever. And for this, &c.*

Note; These Words, against the said A. and his Heirs, signify, that they will warrant the said Tenements against any Claim to the same to be made by the said A. and his Heirs. And the Meaning of these Words, And for this, &c. is, that for the Acknowledgment of this Fine, a Sum of Money (which is supposed to be the Consideration of the Agreement) is given to the Conusor by the Conusee, in true Sterling Money.

* Before the Stat. 18 Ed. 1. *de modo levandi fines*, the Fee was conveyed by the Fine without the Word *Heirs*, but since this Statute there ought to be an *Habendum* of the Estate to the Heirs in Fines, as will as in Feoffments and Grants. *Comyns* 93.

Note; Also where any Fine is levied, it shall be said to be all that Term wherein it is levied in Pectore Judicis, to amend it for Error, as the Judges see Cause. Latch 180.

And *Note*, That the Court of Chancery will decree a Fine to be levied on the Words, *I do intend to levy a Fine to secure* 500*l.* 2 Mod. 91.

2d, The Form of a *Fine sur Done, Grant and Render*, otherwise called a double Fine.

Middlesex, ss. **C**ommand A. B. Gent. that he justly and without Delay perform to C. D. the Covenant between them made of the Manor of E. with the Appurtenances in D. And unless, &c.

And the Agreement is such (that is to say) That the said A. hath acknowledged the said Manor with the Appurtenances to be the Right of him the said C. as that which the said C. hath of the Gift of the said A. and that he hath remised and quit-claimed from him the said A. and his Heirs, to the said C. and his Heirs for ever. And moreover, the said A. hath granted for himself and his Heirs, that they will warrant to the said C. and his Heirs, the aforesaid Manor, with the Appurtenances, against the said A. and his Heirs for ever. And for this Acknowledgment, Remise, Quit-claim, Warranty, Fine and Agreement, the said C. hath granted to the said A. and his Heirs, the annual Rent of ten Pounds, issuing out of the said Manor, with the Appurtenances; and that he hath rendred to him, &c. for him the said A. and his Heirs, to have and receive the said Rent at the Feasts of the Annunciation of the blessed Virgin Mary and Saint Michael the Archangel, by even and equal Portions, to be paid yearly for ever. And if it shall happen that the said Rent of ten Pounds be in Arrear in part or in all after either of the said Feasts whereupon it ought to be paid, that then it shall be lawful for the said A. and his Heirs to enter into the said Manor
with

with the Appurtenances, and distrain and lawfully to carry and drive away, and retain in his own Possession, the Distress then and there taken and had, until the said Rent of ten Pounds, with the Arrears thereof (if any be) shall be fully paid and satisfied.

Another with a Grant and Render in Tail, with divers Remainders over of the whole Manor, and not a Rent, &c.

Command A. B. Gentleman, &c. (as before.)

AND the Agreement is such (that is to say) That the said A. hath acknowledged the said Manor with the Appurtenances to be the Right of him the said C. as that which the said C. hath of the Gift of the said A. &c. (as last before). And for this Acknowledgment, Remise, Quit-claim, Warranty, Fine and Agreement, the said C. hath granted to the said A. the said Manor with the Appurtenances, and that he hath rendred to him, &c. To have and to hold to the said A. and the Heirs which he shall beget on the Body of E. his Wife. And if it shall happen that the said A. shall die without Heirs, by him begotten on the Body of the said E. then after the Death or Decease of the said A. the said Manor with the Appurtenances shall wholly remain to the said E. during the Life of her the said E. and after the Decease of the said E. the said Manor with the Appurtenances shall remain to the right Heirs of the said C. &c.

3d, The Form of a Fine sur Conuſance de droit tantum, of a third Part in Re-
version.

Note; If a Feme Covert levies a Fine with her Husband, ſhe muſt according to 18 Ed. 1. be privately examined, &c. tho' after a Fine is received and recorded, no Feme Covert nor her Heirs ſhall be received to aver, that ſhe was not examined, nor aſſented. 2 Inſt. 515.

Middleſex, ſſ. **C**ommand A. B. and C. his Wife, that juſtly, &c. they perform to D. C. the Covenant made between them of the third Part of three Meſſuages, three Tofts, three Gardens, two hundred Acres of Lands, ſixty Acres of Meadow and one hundred Acres of Paſture, with the Appurtenances, in T. G. and H. And unleſs, and ſo forth.

And the Agreement is ſuch, (that is to ſay) That the ſaid A. and C. have acknowledged the ſaid third Part with the Appurtenances to be the Right of the ſaid D. and have granted that the ſaid third Part with the Appurtenances (which J. R. Widow, on the Day when this Agreement was made, holds for the Term of her Life) of the Inheritance of the ſaid C. and which, after the Death of the ſaid J. R. ought to revert to the ſaid A. and C. immediately after the Death of the ſaid J. R. ſhall wholly remain to the ſaid D. and his Heirs for ever; To hold &c. And moreover, the ſaid A. and C. have granted for themſelves and the Heirs of the ſaid C. that they will warrant to the ſaid D. and his Heirs the ſaid third Part with the Appurtenances (as aforeſaid) againſt them the ſaid A. and C. and the Heirs of the ſaid C. for ever. And for this, and ſo forth.

Another

Another of two Messuages, &c.

Cumberland, ff. **C**ommand T. D. that justly, &c. he perform to J. C. the Covenant made between them of two Messuages, two Barns, two Stables, two Cow-houses, two Orchards, two Gardens, twenty Acres of Land, twenty Acres of Meadow, and forty Acres of Pasture, with the Appurtenances, in V. in the Parish of S. And unless, &c.

And the Agreement is such, (to wit) That the said T. hath acknowledged the said Tenements with the Appurtenances to be the Right of the said J. and hath granted that the said Tenements with the Appurtenances (which the said J. and E. the Wife of the said J. on the Day this Agreement was made, hold for the Term of the Life of the said E.) of the Inheritance of the said T. and which after the Death of the said E. the Wife of the said J. ought to revert to the said T. and his Heirs, shall after the Death of the said E. wholly remain to the said J. and his Heirs for ever; To hold the said Tenements with the Appurtenances to the said J. and his Heirs for ever, immediately after the Death of the said E. And moreover, the said T. hath granted for himself and his Heirs, that he will warrant to the said J. and his Heirs the said Tenements with the Appurtenances (as aforesaid) against him the said T. and his Heirs for ever. And for this, and so forth.

4th, A Lease for Years by *Finé sur Concessit*.

Surrey, H. **C**ommand T. B. that he justly, &c. perform to G. R. the Covenant made between them of one Messuage and 24 Acres of Land, with the Appurtenances, in D. And unless, and so forth.

And the Agreement is such, (that is to say) That the said T. hath granted to the said G. the said Tenements with the Appurtenances, To have and to hold the said Tenements with the Appurtenances to the said G. and his Assigns from the Feast-Day of Saint Michael the Archangel last past, until the full End and Term of 21 Years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore yearly, during the said whole Term, to the said E. and his Heirs, ten Pounds of lawful Money of Great Britain, to be paid at the Feasts of the Annunciation of the blessed Virgin Mary and Saint Michael the Archangel, by even and equal Portions. And if it shall happen the said Rent be in Arrear and unpaid in part or in all after either of the said Feasts, then it shall be lawful for the said G. and his Heirs to enter into the said Tenements with the Appurtenances, and distress, and to drive and carry away the Distress there taken, and retain the same until they shall be fully paid and satisfied of the said Rent and the Arrears of the same. And furthermore, the said T. and his Heirs warrant to the said G. the said Tenements with the Appurtenances against the said T. and his Heirs, during the said whole Term. And for this, and so forth.

Having

Having observed the Form of each of the four Sorts of Fines beforementioned, I now come to set forth divers Forms of *Præcipes* and Concords. And here Note, that though Fines are taken by *Dedimus*, yet they are recorded as taken in Court, to prevent Questions about Captions. *Lucas 45.*

A Fine by Husband and Wife of the Husband's Lands.

Kent, ff. ‘**C**OMMEND *W. P.* and *M.* his Wife, that they justly, and so forth, perform to *J. B.* the Covenant made between them of two Messuages, two Tofts, four Acres of Land, &c. with the Appurtenances in *H.* And unless, and so forth.

‘ And the Agreement is such, (that is to say) That the said *W.* and *M.* have acknowledged the said Tenements with the Appurtenances, to be the Right of the said *J.* as those which the said *J.* hath of the Gift of the said *W.* and *M.* and those they have remised and quit-claimed from them the said *W.* and *M.* and the Heirs of the said *W.* to the aforesaid *J.* and his Heirs for ever. And moreover, they the said *W.* and *M.* have granted for themselves and the Heirs of the said *W.* that they will warrant to the said *J.* and his Heirs the said Tenements with the Appurtenances against them the said *W.* and *M.* and the Heirs of the said *W.* for ever. And for this, and so forth.

Note: A Fine is sufficient to pass an Estate without any other Conveyance. *Skinner 184.* And a Fine levied by a Decree in Chancery, will not work any farther than the Decree intended. *1 Chan. Cas. 49.* A Fine can't be believed of Money agreed to be laid out in

Land and settled in Tail, but a Decree can bind such Money equally as a Fine could the Land. *Peer Williams, vol. 1. p. 130.*

*By the Husband and Wife of the Wife's
Lands.*

Middlesex, ss. ‘ **C**ommand *T. J.* and *S.* his
Wife, that they justly,
‘ and so forth, perform to *C. T.* the Covenant
‘ between them made of one Messuage, 24
‘ Acres of Land, 30 Acres of Wood, and
‘ 20 Acres of Underwood, with the Appur-
‘ tenances in *C.* And unless, &c.

‘ And the Agreement is such, (that is to
‘ say) That the said *T.* and *S.* have acknow-
‘ ledged the said Tenements with the Appur-
‘ tenances to be the Right of the said *C.* as
‘ those which the said *C.* hath of the Gift of
‘ the said *T.* and *S.* and those they have re-
‘ mised and quit-claimed from them the said
‘ *T.* and *S.* and the Heirs of the said *S.* to the
‘ aforesaid *C.* and his Heirs for ever. And
‘ moreover, they the said *T.* and *S.* have grant-
‘ ed for themselves and the Heirs of the said
‘ *S.* that they will warrant to the said *C.* and
‘ his Heirs the said Tenements with the Ap-
‘ purtenances against them the said *T.* and *S.*
‘ and the Heirs of the said *S.* for ever. And
‘ for this, &c.

*A Fine from one to two of a Messuage,
Lands and Common.*

Herts. ss. ‘ **C**ommand *B. T.* that justly, &c.
‘ he perform to *H. J.* and *R.*
‘ *N.* the Covenant, &c. of three Messuages,
‘ five Gardens, 100 Acres of Land, 200 Acres
‘ of Wood and Common of Pasture for all
I Manner

‘ Manner of Cattle, with the Appurtenances
‘ in *M.* and *B.* And unless, &c.

‘ And the Agreement is such, (that is to
‘ say) That the said *B.* hath acknowledged the
‘ said Tenements and Common of Pasture with
‘ the Appurtenances to be the Right of the
‘ said *H.* as those which the said *H.* and *R.*
‘ have of the Gift of the said *B.* and those he
‘ hath remised and quit-claimed from him and
‘ his Heirs to the said *H.* and *R.* and the Heirs
‘ of the said *H.* for ever. And moreover, the
‘ said *B.* hath granted for himself and his
‘ Heirs, that they will warrant to the aforesaid
‘ *H.* and *R.* and the Heirs of the said *H.* the
‘ said Tenements and Common of Pasture
‘ with the Appurtenances against him the said
‘ *B.* and his Heirs for ever. And for this, &c.’

Note; A Fine bars not the Equity of Redemption, Hard. 512. nor an Estate in futuro. Sir T. Raym. 149.

If a Fine be levied to two, & *Hereditibus* without the Word *Suis*, this will be void for Incertainty.

By two to two of a Manor, Lands, Rent and Common, with a Warranty against the Conusors and the Heirs of one to the Conusees and the Heirs of one.

Somersf. ff. ‘ Command *T. L.* Esq; and *W.*
‘ *N.* Gent. that justly, &c.
‘ they perform to *P. H.* and *S. D.* the Cove-
‘ nant between them made of the Manor of
‘ *D.* with the Appurtenances, and of seven
‘ Messuages, two Tofts, one Mill, two Dove-
‘ houses, ten Gardens, 100 Acres of Land,
‘ 100 Acres of Meadow, 200 Acres of Pa-
‘ sture, 20 Acres of Wood, 100 Acres of
‘ Heath,

Of fines.

‘Heath, 200 Acres of moorish Ground, 20
 ‘Acres of marsh Ground, 20 Acres of Elder-
 ‘wood, a Rent of 20s. and Common of Pa-
 ‘sture for all Cattle, with the Appurtenances,
 ‘in D. &c. And unless, &c.

‘And the Agreement is such, (that is to
 ‘say) That the said T. and W. have acknow-
 ‘ledged the said Manor, Tenements, Rent
 ‘and Common, with the Appurtenances, to
 ‘be the Right of the said P. as those which
 ‘they the said P. and S. have of the Gift of
 ‘the said T. and W. and those they have re-
 ‘mised and quit-claimed from them the said
 ‘T. and W. and the Heirs of the said T. to the
 ‘said P. and S. and the Heirs of the said P.
 ‘for ever. And moreover, they the said T.
 ‘and W. have granted for themselves and the
 ‘Heirs of the said T. that they will warrant
 ‘to the said P. and S. and the Heirs of the
 ‘said P. the said Manor, Tenements, Rent and
 ‘Common, with the Appurtenances, against
 ‘the said T. and W. and the Heirs of the said
 ‘T. for ever. And for this, &c.”

By two with several Warranties.

‘AND the Agreement is such, (that is to
 ‘say) That the said S. and R. have ac-
 ‘knowledged the Tenements aforesaid with
 ‘the Appurtenances to be the Right of the
 ‘said A. as those which he the said A. hath
 ‘of the Gift of the said S. and R. and those
 ‘they have remised and quit-claimed from
 ‘them the said R. and S. and their Heirs, to
 ‘the aforesaid A. and his Heirs for ever. And
 ‘moreover, the said S. hath granted for
 ‘himself

himself and his Heirs, that they will warrant to the said *A.* and his Heirs the Tenements aforesaid with the Appurtenances, against him the said *S.* and his Heirs for ever. And further, the said *R.* hath granted for himself and his Heirs, that they will warrant to the said *A.* and his Heirs the Tenements aforesaid with the Appurtenances, against him the said *R.* and his Heirs for ever. And for this, &c.

A Fine upon two Writs of Covenant of Castles, Parks and Tenements.

N. ff. Command *T.* Duke of *A.* and *S.* his Wife, and *C. F.* Esq; that justly, &c. they perform to *W.* Marquess of *N. O. D. S.* the Covenant, &c. of the Castle of *H.* with the Appurtenances, and of the Park of *W.* with the Appurtenances, and moreover of 20 Messuages, 20 Cottages, ten Gardens, ten Orchards, 100 Acres of Land, ten Acres of Wood, and 20 Acres of marsh Ground, with the Appurtenances, in *W.* &c. And unless, &c.

V. N. ff. Command the same Persons, that justly, &c. they perform to the same Persons the Covenant, &c. of the Castle of *H.* with the Appurtenances, and of the Park of *W.* with the Appurtenances, and moreover of 20 Messuages, 20 Cottages, one Dove-house, 100 Acres of Land, 200 Acres of Meadow, &c. with the Appurtenances, in *V. N.* And unless, &c.

And

‘ And the Agreement is such, (that is to
 ‘ say) That the aforesaid Duke and S. and F.
 ‘ have acknowledged the Castles, Parks and
 ‘ Tenements aforesaid, with the Appurte-
 ‘ nances, to be the Right of the said Mar-
 ‘ quess, as those which the said Marquess hath
 ‘ of the Gift of the said Duke and S. and F.
 ‘ and those they have remised and quit-claim-
 ‘ ed from them the said Duke and S. and F.
 ‘ and their Heirs, to the aforesaid Marquess
 ‘ and his Heirs for ever. And moreover, the
 ‘ said Duke and S. have granted for them-
 ‘ selves and the Heirs of the said Duke, that
 ‘ they will warrant to the said Marquess and
 ‘ his Heirs the aforesaid Castles, Parks and
 ‘ Tenements, with the Appurtenances, against
 ‘ the said Duke and S. and the Heirs of the
 ‘ said Duke for ever. And further, the said
 ‘ F. hath granted for himself and his Heirs,
 ‘ that they will warrant to the said Marquess
 ‘ and his Heirs the aforesaid Castles, Parks
 ‘ and Tenements, with the Appurtenances,
 ‘ against him the said F. and his Heirs for
 ‘ ever. And for this, &c.’

*A Fine of the fourth Part of a fifth Part
 of a Messuage in London.*

London, ss. ‘ C Ommend A. B. and C. D. and
 ‘ E. his Wife, that justly, &c.
 ‘ they perform to J. L. the Covenant, &c. of
 ‘ the fourth Part of a fifth Part of a Messuage
 ‘ and a Garden, with the Appurtenances, in
 ‘ the Parish of Saint Mary Aldermanbury. And
 ‘ unless, &c.’

‘ And

‘ And the Agreement is such, (that is to say) That the said *A.* and *G.* and *E.* have acknowledged the said fourth Part with the Appurtenances to be the Right, &c.

A Præcipe of two Acres of Pasture.

Middx. ss. ‘ **C**ommand *T. J. Gent.* and *A.* his Wife, that justly, &c. they perform to *T. B. Gent.* the Covenant, &c. of two Acres of Pasture with the Appurtenances, in the Parish of Saint *Leonard Shoreditch.* And unless, &c.’

‘ And the Agreement is such, (that is to say) That the said *T.* and *A.* have acknowledged the said Pasture with the Appurtenances to be the Right, &c.’

A Fine upon three Writs of Covenant of divers Honours, Castles, Manors, Parks, several Messuages, &c. consisting of a great Variety of Parcels, all properly placed.

Devon. ss. ‘ **C**ommand *Sir E. S. Baronet,* and *A.* his Wife, and *E. S. Esq;* Son and Heir apparent to the said *E.* and *M.* his Wife, and *E. S.* that they justly, and so forth, perform to *R. E. Gent.* and *G. L. Gent.* the Covenant, &c. of the Honours of *T. B.* and *P.* with the Appurtenances, and of the Castles of *T. B.* and *P.* with the Appurtenances, moreover of the Manors of *T. B.* and *P.* with the Appurtenances, and also of the Parks of *J. B.* and *P.* with the Appurtenances, and also of 90 Messuages,

Of Fines.

' suages, 40 Cottages, five Mills, two Dove-
 ' houses, 1200 Acres of Land, 500 Acres of
 ' Meadow, 1800 Acres of Pasture, 200 Acres
 ' of wood Land, 1400 Acres of Furze and
 ' Heath, 100 Acres of Marsh-Land, a Rent
 ' of twenty Pounds Common of Pasture, View
 ' of Frank-pledge, and whatsoever belongs
 ' to the View of Frank-pledge, a Knight's
 ' Fee, Wards, Marriages, Escheats, Goods
 ' and Chattels of Waifs, Estrays, Goods and
 ' Chattels of Felons, Fugitives, Outlaws, Per-
 ' sons attainted, Felons of themselves, Deo-
 ' dands, Treasure, Fairs, Markets, Wrecks
 ' of the Sea, and Free Warren, with the Ap-
 ' purtenances, in *T. B. P. B. &c.* the Towns
 ' and Places where the Lands lie, and of a
 ' Free Fishery in the Waters of *D. H.* and *T.*
 ' moreover of the Advowson of the Church
 ' of *D. P.* and also of a Moiety of the Manor
 ' of *H.* otherwise *H.* with the Appurtenances,
 ' Escheats, Goods and Chattels of Waifs, E-
 ' strays, Goods and Chattels of Felons, Fugi-
 ' tives, Outlaws, Persons attainted; of the
 ' Fairs, Markets, Wrecks of the Sea, and of
 ' a Free Warren with the Appurtenances, in
 ' *H.* otherwise *H.* and of a fourth Part of the
 ' Hundred of *H.* with the Appurtenances,
 ' and also of the eighth Part of a Barn with
 ' the Appurtenances in *D.* And unless, &c.'

Wils. ff. ' **C**ommand the same Persons, that
 ' justly and without Delay they
 ' perform to the same Persons the Covenant
 ' made between them of the Manor of *M.*
 ' with the Appurtenances, and of 55 Mes-
 ' suages, 18 Cottages, two Corn Mills, one
 ' Dove-house, 70 Orchards, 400 Acres of
 ' Land, 100 Acres of Meadow, 600 Acres of
 ' Pasture,

* Pasture, 400 Acres of Wood Land, 500
 * Acres of Furze and Heath, and a Rent of
 * 6 s. with the Appurtenances, in *M. B. H.* and
 * *B.* And unless, &c.

Somerf. ff. * **C**ommand the same Persons,
 * that justly and without De-
 * lay they perform to the same Persons the
 * Covenant made between them of 800 Acres
 * of Land, 20 Acres of Pasture, and 20 Acres
 * of Furze and Heath, with the Appurtenances,
 * in *M. B. H. B.* and *Y.* And unless, &c.

* And the Agreement is such, (that is to
 * say) That the said *E.* and *A. E.* and *M.* and
 * *E.* have acknowledged the said Honours, Cas-
 * tles, Manors, Parks, Tenements, Rents,
 * Common of Pasture, View of Frank-pledge,
 * Knight's Fee, Wards, Marriages, Escheats,
 * Goods and Chattels of Waifs, Estrays,
 * Goods and Chattels of Felons, Fugitives,
 * Outlaws, Attaints, Felons of themselves, (or
 * Murderers of themselves) Deodands, Treas-
 * ure, Fairs, Markets, Wrecks of the Sea,
 * Warren, Fishery, the Moiety and Parts with
 * the Appurtenances, and the said Advowson,
 * to be the Right of the said *R.* as those which
 * the said *R.* and *G.* have of the Gift of the
 * said *E.* and *A. E.* and *M.* and *E.* and those
 * they have remised and quit-claimed from
 * them the said *E.* and *A. E.* and *M.* and *E.*
 * and their Heirs, to the said *R.* and *G.* and
 * the Heirs of the said *R.* for ever. And more-
 * over, the said Sir *E. S.* Baronet, and *A.* have
 * granted for themselves and the Heirs of the
 * same *E.* that they will warrant to the said *R.*
 * and *G.* and to the Heirs of the said *R.* the
 * said Honours, Castles, Manors, Parks, Te-
 * nements, Rents, Common of Pasture, View

Of Fines.

' of Frank-pledge, Knight's Fee, Wards, Mar-
 ' riages, Escheats, Goods and Chattels of Waifs,
 ' Estrays, Goods and Chattels of Felons, Fu-
 ' gitives, Outlaws, Attaints, Felons of them-
 ' selves, (or Murderers of themselves) Deo-
 ' dands, Treasure, Fairs, Markets, Wrecks of
 ' the Sea, Warren, Fishery, the Moiety and
 ' Parts with the Appurtenances, and the said
 ' Advowson, against them the said *E.* and *A.*
 ' and the Heirs of the *E.* for ever. And fur-
 ' ther, the said *E. S. Esq;* and *M.* have grant-
 ' ed for themselves and the Heirs of the said
 ' *E.* that they will warrant to the said *R.* and
 ' *G.* and the Heirs of the said *R.* the said
 ' Honours, Castles, Manors, &c. (*the same*
 ' *Parcels as before*) against them the said *E.*
 ' and *M.* and the Heirs of the said *E.* for ever.
 ' And furthermore, the said *E.* hath granted
 ' for herself and her Heirs, that they will war-
 ' rant to the said *R.* and *G.* and the Heirs of
 ' the said *R.* the said Honours, &c. (*here*
 ' *again recite the Parcels*) against her the said
 ' *E.* and her Heirs for ever. And for this, &c.'

A Fine sur Concessit from Husband and
Wife of an annual Rent of 4l. 13s. 4d.
issuing out of several Messuages in Mid-
dlesex for a Term of Years, if the Feme
shall so long live.

Middx. ss. ' Command *T. J.* and *M.* his
 ' Wife, that they justly, &c.
 ' perform to *G. V. Esq;* the Covenant made
 ' between them of an annual Rent of 4l. 13s.
 ' 4d. issuing out of three Messuages with the
 ' Appurtenances, in the Parish of St. Leonard
 ' *Shoreditch.* And unless, &c.

' And

‘ And the Agreement is such, (that is to say) That they the said T. and M. have granted to the said G. the said Rent; To have and receive the said Rent to the said G. from the Feast of the Annunciation of the blessed Virgin Mary last past until the End of the Term of 99 Years from thence next ensuing and fully to be compleat, (if the said M. shall so long live) and the said T. and M. warrant to the said G. the said Rent (as aforesaid) against the said T. and M. during the whole Term aforesaid, if the said M. shall so long live. And for this, &c.’

Taken and acknowledged, &c.

The same Sort of a Fine from two to one of divers Manors, &c. and a Rectory for a Term of 50 Years, if Conusors so long live, without Impeachment of Waste, under the yearly Rent of a Pepper Corn.

Kent, ‘ C Ommand Sir R. G. Baronet, and C. his Wife, that justly, &c. they perform to J. C. Esq; the Covenant between them made of the Manors of, &c. (*here mentioning their Names*) with the Appurtenances, and of 20 Messuages, one Mill, six Gardens, ten Orchards, 800 Acres of Land, 50 Acres of Meadow, 100 Acres of Pasture, 100 Acres of Wood Land, 100 Acres of Furze and Heath-Ground, and Common of Pasture with the Appurtenances in (*here name all the Places where the Lands lie*) and also of the Rectory of D. with the Appurtenances. And unless, &c.’

‘ And the Agreement is such, (that is, to
 ‘ say) That the said R. and C. have granted to
 ‘ the said J. the said Manors, Tenements,
 ‘ Common of Pasture and Rectory with the
 ‘ Appurtenances; To have and to hold to the
 ‘ said J. from the Feast of St. *Michael* the
 ‘ Archangel now last past until the End of
 ‘ the Term of 50 Years from thence next en-
 ‘ suing, and fully to be compleat and ended,
 ‘ if they the said R. and C. or either of them
 ‘ shall so long live, without any Impeach-
 ‘ ment, by reason of any Waste; Yeilding and
 ‘ paying therefore yearly to the said R. and C.
 ‘ one Grain of Pepper at the Feast of the
 ‘ Annunciation of the blessed Virgin *Mary* in
 ‘ every Year, during the Continuance of the
 ‘ whole Term aforesaid, if demanded, and if
 ‘ the said R. and C. or either of them shall so
 ‘ long live. And the said R. and C. and the
 ‘ Heirs of the said R. will warrant to the said
 ‘ J. the said Manors, Tenements, Common of
 ‘ Pasture and Rectory with the Appurtenances,
 ‘ as aforesaid, during the said whole Term, if
 ‘ the said R. and C. or either of them, shall so
 ‘ long live. And for this, &c.’

A Fine from Husband and Wife with two Warranties.

Middx. ff. ‘ Command T. L. and M. his
 ‘ Wife, that they justly, &c.
 ‘ perform to J. Earl of D. the Covenant be-
 ‘ tween them made of 100 Acres of Land
 ‘ in the Town of K. And unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That they the said T. and M. have ac-
 ‘ knowledged

' knowledged the said 100 Acres of Land (or
 ' have acknowledged the said Land) with the
 ' Appurtenances to be the Right of the said
 ' Earl, as those which the said Earl hath of the
 ' Gift of the said T. and M. and those they
 ' remised and quit-claimed from them the said
 ' T. and M. and their Heirs to the said Earl
 ' and his Heirs for ever. And moreover, the
 ' said T. hath granted for himself and his
 ' Heirs, that they will warrant to the said Earl
 ' and his Heirs the said 100 Acres of Land
 ' with the Appurtenances, against the said T.
 ' and his Heirs for ever. And further, the
 ' said T. and M. have granted for themselves
 ' and the Heirs of the said M. that they will
 ' warrant to the said Earl and his Heirs the
 ' said 100 Acres of Land with the Appurte-
 ' nances, against the said T. and M. and the
 ' Heirs of the said M. for ever. And for
 ' this, &c.*

*A Præcipe of three Parts of several Mes-
 suages, Cottages, Rectory, and several
 other Things.*

' Command J. T. that justly, &c. he per-
 ' form to T. A. the Covenant made be-
 ' tween them of three fourth Parts of six Mes-
 ' suages, six Cottages, two Mills, ten Gardens,
 ' six Orchards, 100 Acres of Land, 50 Acres
 ' of Meadow, 50 Acres of Pasture, 10 Acres
 ' of Moorish Ground, 10 Acres of * Turbary,
 ' with the Appurtenances, in D. E. and F. and
 F 2 ' of

* Turbary is only the Right of digging Turf, and may be demanded by the Name of Moorish Ground.

of the third Part of the View of Frank-
pledge, of the Goods and Chattels of Waifs,
&c. with the Appurtenances, in D. &c. and
also of the third Part of the Rectory of the
Church of C. with the Appurtenances. And
unless, &c.

*A Præcipe of divers Manors, an Hundred,
Messuages, Land, &c. Rents, Liberty of
Foldage and Sheep-walk.*

Essex. Command A. B. that he justly and
without Delay perform to C. D.
the Covenant, &c. of the Manors of D. C.
and E. with the Appurtenances, and of the
Hundred of D. with the Appurtenances, and
also of 16 Messuages, ten Cottages, 16 Gar-
dens, 400 Acres of Land, 600 Acres of
Meadow, 200 Acres of Pasture, three Roods
of Wood, 10 Acres of Furze and Heath-
Ground, a Rent of 10*l.* and a Rent of 50*s.*,
the Liberty of Foldage and of a Sheep-walk,
with the Appurtenances, in D. C. E. F. G.
and H. And unless, &c.

A Fine

A Fine of a Manor, Grange, several Messuages and Quantities of Land, &c. from five Conusors, the four last being two Husbands and their Wives, with Warranty by the first Cognizor against him and his Heirs, and against the other four Cognizors and the Heirs of the Father of the two first Cognizors, and against all Persons claiming by them or any of them. 2. A Warranty against the second and third Cognizors, and the Heirs of the Husband and all other Persons named in the first Warranty. 3. A Warranty against the two last Cognizors, and the Heirs of the Husband only; with three several Captions:

Nott. ff. Command G. C. Gent. J. C. Gent. and M. his Wife, and R. B. Gent. and E. his Wife, that they justly and without Delay perform to R. C. Esq; the Covenant between them made of the Manor of G. with the Appurtenances, and of the Grange of G. with the Appurtenances; also of seven Messuages, four Cottages, 200 Acres of Land, 20 Acres of Meadow, 20 Acres of Pasture, and 100 Acres of Furze and Heath-Ground in G. otherwise G. otherwise G. S. H. N. and B. And unless, &c.

And the Agreement is such, (that is to say) That they the said G. J. and M. and R. B. and E. have acknowledged the said Manor, Grange and Tenements with the Appurtenances, to be the Right of the said R. C. as those which the same R. hath of the Gift

of the said G. J. and M. and R. B. and E.
 and those they have remised and quit-claim-
 ed from them and their Heirs to the said R.
 C. and his Heirs for ever. And moreover,
 the said G. hath granted for himself and his
 Heirs, that they will warrant to the said R.
 C. and his Heirs the said Manor, Grange,
 and Tenements with the Appurtenances,
 against him the said G. and his Heirs, and
 against the said J. and M. and R. B. and E.
 and their Heirs, and against the Heirs of P.
 C. Gent. deceased, late Father of the said G.
 and J. and against all other Persons claiming
 by the said G. J. and M. R. B. and E. and
 P. or any of them for ever. And further,
 the said J. and M. have granted for them-
 selves and the Heirs of the said J. that they
 will warrant to the said R. C. and his Heirs
 the said Manor, Grange and Tenements with
 the Appurtenances, against the said J. and
 M. and the Heirs of the said J. and against
 the said G. and R. B. and E. and their Heirs,
 and against the Heirs of the said P. and
 against all other Persons claiming by the said
 J. and M. G. R. B. and E. and P. or any
 of them, for ever. And Furthermore, they
 the said R. B. and E. have granted for them-
 selves and the Heirs of the same R. that
 they will warrant to the said R. C. and his
 Heirs, the same Manor, Grange and Tene-
 ments with the Appurtenances, against the
 said R. B. and E. and the Heirs of the same
 R. for ever. And for this, &c.

*Taken and acknowledged by the above
 named J. C. on the sixth Day of Au-
 gust in the 22d Year of the Reign*

of King George the Second over
Great Britain, &c. before us

A. B.

C. D.

Taken and acknowledged by the above
named G. C. R. B. and E. his Wife,
on the seventh Day of August in
the 22d Year aforesaid, before us

A. B.

C. D.

Taken and acknowledged by the above
named M. C. the Wife of the said
J. C. on the eighth Day of Aug-
ust in the 22d Year aforesaid,
before us

E. F.

A. B.

A Fine where one Cognizor warrants one
Part, another another Part, and the
third another Part.

Essex, ss: Command A. B. and C. his Wife,
D. E. and F. his Wife, G. H.
and J. his Wife, that they justly, &c. the
Covenant, &c. of four Messuages, six Barns,
three Gardens, one Orchard, 60 Acres of
Land, 100 Acres of Pasture, and 20 Acres
of Wood-Land with the Appurtenances, in
N. P. and S. And unless, &c.

And the Agreement is such, (that is to
say) That the said A. and C. D. and F. G.
and J. have acknowledged the Tenements

'aforesaid with the Appurtenances to be the
 'Right of the said K. as those which the said
 'K. hath of the Gift of the said A. and C.
 'D. and F. G. and J. and those they have re-
 'mised and quit-claimed from them the said
 'A. and C. D. and F. G. and J. and their
 'Heirs, to the said K. and his Heirs for ever.
 'And moreover, they the said A. and C. have
 'granted for themselves and the Heirs of the
 'said A. that they will warrant one Messuage,
 'one Barn and one Garden, Part of the said
 'Tenements in N. aforesaid, to the said K.
 'and his Heirs, against the said A. and C. and
 'the Heirs of the said A. for ever. And fur-
 'ther, the said D. and F. have granted for
 'themselves and the Heirs of the said D. that
 'they will warrant another Messuage, one
 'Barn, one Garden and the Orchard aforesaid,
 'and the said 60 Acres of Land, 100 Acres
 'of Pasture, and 20 Acres of Wood-Land,
 'Parcel of the said Tenements in P. to the
 'said K. and his Heirs, against the said D.
 'and F. and the Heirs of the said D. for ever.
 'And furthermore, they the said G. and J.
 'have granted for themselves and the Heirs
 'of the said G. that they will warrant two
 'Messuages, two Barns, and one Garden, Re-
 'sidue of the said Tenements in S. to the said
 'K. and his Heirs, against the said G. and J.
 'and the Heirs of the said G. for ever. And
 'for this, &c.'

A Lease

A Lease for Years made by a Fine with a Render, whereby the Lessee acknowledges the Lands, &c. to be the Right of the Lessor that is seised thereof, as that, &c. and then the Lessor grants and renders the same back again to the Lessee (that is the Conusor in the Fine) for 21 Years, (or any Number of Years or for Life) under a yearly Rent, with Clause of Distress and Warranty.

M. J. **C**ommand T. G. and R. B. that they justly, &c. perform to J. W. and E. W. the Covenant, &c.

And the Agreement is such, (to wit) That they the said T. and R. have acknowledged the said Tenements with the Appurtenances to be the Right of the said J. as those which the said J. and E. have of the Gift of the said T. and R. and those they have remised and quit-claimed from them the said T. and R. and the Heirs of the said T. to the said J. and E. and the Heirs of the said J. for ever. And moreover, the said T. and R. have granted for themselves and the Heirs of the said T. that they will warrant the said Tenements with the Appurtenances to the said J. and E. and the Heirs of the said J. against all Men for ever. And for this Acknowledgment, Remise, Quit-claim, Warranty, Fine and Agreement, the said J. and E. have granted to the said T. the said Tenements with the Appurtenances; and that they have rendred to him, &c. To have and

to

to hold the said Tenements with the Appurtenances to the said T. and his Assigns, from the Feast of St. Michael the Archangel last past until the full End and Term of 21 Years from thence next ensuing and fully to be compleat and ended; Yielding therefore yearly during the said whole Term, &c. as in the Lease for Years by Fine sur Concessit in this Treatise.

Note; If Tenant in Tail be the Lessor, this Kind of Fine will not bind the Issue in Tail; but here follows one which will.

A Lease by a Fine with Grant and Render to bind the Issue in Tail.

Kent, ff. Command T. T. (the Tenant in Tail) and R. J. (the Lessee) that justly, &c. they perform to S. J. (a Stranger) the Covenant between them made, of one Messuage, &c. (here mention the Parcels.) And unless, &c.

And the Agreement is such, (that is to say) That the said T. and R. have acknowledged the Tenements aforesaid, with the Appurtenances, to be the Right of the said S. as those which the said S. hath of the Gift of the said T. and R. and those they have remised and quit-claimed from them the said T. and R. and the Heirs of the said T. to the said S. and his Heirs for ever. And moreover, they the said T. and R. have granted for themselves and the Heirs of the said T. that they will warrant the said Tenements with the Appurtenances to the said S. and his Heirs, against all Men for ever. And for this Acknowledgment, Remise, Quit-

Quit-claim, Warranty, Fine and Agreement, the said S. (the Conusee and Stranger) hath granted to the said R. (the Lessee) the said Tenements with the Appurtenances, and those he hath rendred, &c. To have and to hold the said Tenements with the Appurtenances to the said R. and his Assigns, from the Feast of the Birth of our Lord *Christ* now last past unto the full End and Term of 21 Years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore yearly, during the said whole Term, to the said T. (the Tenant in Tail) and his Heirs the Sum of 20*l.* of lawful Money of *Great Britain*, at the Feasts of the Nativity of *St. John* the Baptist and the Birth of our Lord *Christ*, by even and equal Portions: And if it shall happen the said Rent to be in Arrear and unpaid, in Part or in all, after either of the said Feasts, then it shall be lawful for the said T. and his Heirs to enter into the said Tenements with the Appurtenances, and to distrain for the same, and to drive and carry away the Distress there taken, and retain the same until they shall be fully paid and satisfied of the said Rent and the Arrears of the same. And further, the said S. (the Stranger) hath granted to the said T. (the Tenant in Tail) as much of the Reversion of the Tenements aforesaid with the Appurtenances, as the said Rent of 20*l.* is thereupon reserved; and that he hath rendred, &c. To have, hold and receive the said Reversion of the Tenements aforesaid with the Appurtenances, and the said Rent, to him the said T. (the Tenant in Tail) and his Heirs for ever. And for this, &c.

A Fine sur Concessit from a Man and his Wife to one of a Manor and Lands, upon a Grant for 99 Years without Impeachment of Waste, under a Pepper Corn Rent, with Warranty against the Husband's Heirs.

Somers. **C**OMMAND *A. B.* and *M.* his Wife, that justly and without Delay they perform to *G. B. Esq;* the Covenant between them made of the Manor of *M.* with the Appurtenances, and of 200 Acres of Land, 300 Acres of Meadow, and 200 Acres of Pasture with the Appurtenances, in *M.* And unless, &c.

And the Agreement is such, (that is to say) That the said *R.* and *M.* have granted to the said *E.* the said Manor and Tenements with the Appurtenances; To have and to hold to the said *E.* from the Feast of *St. Michael* the Archangel last past unto the full End and Term of 99 Years from thence next ensuing and fully to be compleat and ended, without Impeachment of or for any Manner of Waste; Yielding and paying therefore yearly to the said *R.* and *M.* and the Heirs of the said *R.* a Pepper Corn at the Feast of the Nativity of *St. John* the Baptist (if demanded): And they the said *R.* and *M.* and the Heirs of the said *R.* warrant to the said *E.* the said Manor and Tenements with the Appurtenances as aforesaid, against them the said *R.* and *M.* and the Heirs of the said *R.* during the whole Term aforesaid. And for this, &c.

A Fine

A Fine of two Messuages, &c. for two Lives.

Bucks, ‘ **C**ommand S. J. and S. his Wife, that justly, &c. they perform
 ‘ to E. R. F. R. and A. R. the Covenant, &c.
 ‘ of two Messuages, 60 Acres of Land, 20
 ‘ Acres of Meadow, 20 Acres of Pasture,
 ‘ Common of Pasture for all Cattle, and Com-
 ‘ mon of Turbary with the Appurtenances, in
 ‘ the Parish of W. And unless, &c.

‘ And the Agreement is such, (to wit) That
 ‘ the aforesaid S. and S. have granted to the
 ‘ said E. F. and A. and the Heirs of the said
 ‘ E. the Tenements aforesaid with the Appur-
 ‘ tenances, during the Lives of the said S. and
 ‘ S. and the Life of the longer Liver of them,
 ‘ and those they have rendred to the said E. F.
 ‘ and A. To have and to hold to the said E. F.
 ‘ and A. and the Heirs of the said E. during
 ‘ the Lives of the said S. and S. and the Life
 ‘ of the longer Liver of them; and the said S.
 ‘ and S. warrant to the said E. F. and A. and
 ‘ the Heirs of the said E. the said Tenements
 ‘ with the Appurtenances as aforesaid, against
 ‘ them the said S. and S. during the Lives of
 ‘ them the said S. and S. and the Life of the
 ‘ longer Liver of them. And for this, and
 ‘ so forth.’

A Fine with Exception.

‘ **C**ommand, &c. the Covenant, &c. of
 ‘ the Rectory of A. with the Appurte-
 ‘ nances, (except the Advowson of the Vica-
 ‘ rage of the Church of A.) And unless, &c.

‘ And

And the Agreement is such, (that is to say) That the said J. hath acknowledged the said Rectory, with the Appurtenances (except as before excepted) to be the Right, &c. and these he hath remised, &c. (except as before excepted). And moreover the said, &c. hath granted for himself, &c. that they will warrant, &c. the said Rectory, with the Appurtenances (except as before excepted) &c.

A Fine of a Manor, Scite of a Manor, &c. Tithes, &c. and of an Advowson, from four to one, with Warranty by the first Conusor against all Men; by the second against him and his Heirs, and by the two last, being Husband and Wife, against them and the Heirs of the Feme.

Canterbury, ff. **C**ommand R. C. Esq; E. C. Doctor of Divinity, and E. C. Esq; and M. his Wife, that justly, &c. they perform to Sir G. D. Knight, the Covenant, &c. of the Manor of G. H. with the Appurtenances, and of the Scite of the Manor of G. H. with the Appurtenances, and also of 20 Messuages, five Cottages, 20 Gardens, 20 Orchards, 27 Acres of Land, 100 Acres of Meadow, &c. 100 Acres of Wood-land, Court-Leet, Court-Baron, and View of Frank-pledge, with the Appurtenances, in G. H. S. (naming all the Towns); and also of the Rectory of T. with the Appurtenances, and of all and all Manner of Tithes, Oblations, Obventions, Pensions, and Portions to the said Rectory belonging or appertaining; also of the Advowson of the

‘ the Vicarage of the Church of T. And un-
 ‘ less, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That they the said R. E. and E. and M.
 ‘ have acknowledged the said Manor, Scite,
 ‘ Tenements, Court-Leet, Court-Baron, View
 ‘ of Frank-pledge, Rectory, Tithes, Obla-
 ‘ tions, Obventions, Pensions and Portions, with
 ‘ the Appurtenances, and the Advowson afore-
 ‘ said, to be the Right of the said G. as those
 ‘ which he the said G. hath of the Gift of the
 ‘ said R. E. and E. and M. and those they
 ‘ have remised and quit-claimed from them
 ‘ and their Heirs to the said G. and his Heirs
 ‘ for ever. And moreover the said R. hath
 ‘ granted for himself and his Heirs, that they
 ‘ will warrant to the said G. and his Heirs,
 ‘ the said Manor, Scite, Tenements, Court-
 ‘ Leet, Court-Baron, View of Frank-pledge,
 ‘ Rectory, Tithes, Oblations, Obventions,
 ‘ Pensions and Portions, with the Appurte-
 ‘ nances, and the Advowson aforesaid, against
 ‘ all Men for ever. And further the said E.
 ‘ hath granted for himself and his Heirs, that
 ‘ they will warrant to the said G. and his
 ‘ Heirs, the said Manor, Scite, &c. (*as be-
 ‘ fore*) against him the said E. and his Heirs
 ‘ for ever. And furthermore they the said
 ‘ E. and M. have granted for themselves and
 ‘ the Heirs of the said M. that they will war-
 ‘ rant to the said G. and his Heirs the said
 ‘ Manor, &c. (*as before*) against the said E.
 ‘ and M. and the Heirs of the said M. for
 ‘ ever. And for this, &c.

A Fine of a Messuage (by the Word Messuage in the Concord) with Warranty against the Heirs of the Husband, and against the Heirs of his Father and Grandfather, and against all others claiming by him, his Father or Grandfather, or any of them.

M. Jf. ‘ **C**ommand Sir J. R. Knight and Baronet, and S. his Wife, that
 ‘ justly and without Delay they hold with E.
 ‘ D. the Covenant made between them of a
 ‘ Messuage with the Appurtenances in the Parish of St. George the Martyr. And unless, &c.

‘ And the Agreement is such, (that is to say) That the said J. and S. have acknowledged the said Messuage with the Appurtenances to be the Right of the said E. as those which the said E. hath of the Gift of the said J. and S. and those they have remised and quit-claimed from them and their Heirs to the said G. and his Heirs for ever. And moreover the said J. and S. have granted for themselves and the Heirs of the said J. that they will warrant to the said G. and his Heirs the said Messuage with the Appurtenances, against the said J. and S. and the Heirs of the said J. and against the Heirs of Sir J. R. Knight and Baronet, Father of the said J. and J. R. Esq; Grandfather of the said J. deceased, and against all others claiming by the said J. J. the Father, and J. the Grandfather, or any of them, for ever. And for this, &c.’

A Præcipe

A Præcipe of Stables (amongst other Things.)

M. ff. ‘**C**ommand G. W. and E. his Wife,
 ‘ that justly, &c. they perform to
 ‘ R. H. the Covenant between them made of
 ‘ two Messuages, three Stables, two Cow-
 ‘ houses, and two Gardens, with the Appur-
 ‘ tenances, in the Parish of St. Leonard, Shore-
 ‘ ditch. And unless, &c.’

*Of a Parsonage Improprate, and of the
Moiety of the Tithes.*

‘ **C**ommand, &c. of the Rectory Impro-
 ‘ priate of H. with the Appurtenances,
 ‘ and of the Moiety of all the Tithes of Corn,
 ‘ Grain and Hay, arising, growing or re-
 ‘ newing in H. aforesaid to the Rectory be-
 ‘ longing, &c. And unless, &c.’

Of Rent issuing out of a Rectory in London.

Lon. ff. ‘**C**ommand E. D. Widow, and J.
 ‘ B. and G. his Wife, that justly,
 ‘ &c. they hold with W. R. the Covenant, &c.
 ‘ of the yearly Rent of 22*l.* issuing out of the
 ‘ Rectory of the Parish of St. Buttolph with-
 ‘ out Aldgate, with the Appurtenances. And
 ‘ unless, &c.’

‘ And the Agreement is such, (to wit) that
 ‘ the said E. J. and G. have acknowledged the
 ‘ said Rent to be the Right, &c.’

G

Another

Another of the same.

Lincoln, ff. 'Command A. B. that he justly, &c. perform to J. C. the Covenant, &c. of an annual Rent of 6*l.* 12*s.* 8*d.* issuing out of the Rectory of *Harsestone*, with the Appurtenances. And unless, &c.'

Of Rent issuing out of divers Manors.

K. ff. 'Command T. S. that he justly, &c. perform to R. G. the Covenant, &c. of an annual Rent of 6*l.* 17*s.* 10*d.* issuing out of the Manors of D. E. and G. with the Appurtenances. And unless, &c.'

A Precipe of Manors, Messuages, and several other Things.

Midd. ff. 'Command S. J. Gentleman, that he justly and without Delay perform to A. B. Esq; the Covenant, &c. of the Manors of D. and G. with the Appurtenances, and of six Messuages, ten Cottages, a Water-mill for Grain, two Dove-houses, 30 Gardens, 30 Orchards, 100 Acres of Land, 50 Acres of Meadow, 40 Acres of Pasture, 300 Acres of Wood-land, 100 Acres of Furze and Heath Ground, 1000 Acres of Moorish-Ground, 10 Acres of Land covered with Water, a Rent of 60*s.* and common of Pasture for all Cattle, with the Appurtenances, to B. O. N. &c. (inhabiting the Towns). And unless, &c.'

* A Fine of a Mill is good without saying whether it be a Wind-mill, or a Water-mill, but both Ways are used.

44 E. 3. J. 13.

' And

And the Agreement is such, (that is to say) that the said S. hath acknowledged the said Manors, Tenements, and Common of Pasture, with the Appurtenances, to be the Right of the said, &c.

A Fine of three Messuages, acknowledged by the Word Messuage, in the Concord.

Lon. ff. Command B. S. Gentleman, and M. his Wife, that justly, &c. they perform to W. S. Gentleman, and J. W. Gentleman, the Covenant between them made of three Messuages, with the Appurtenances, in the Parish of St. Bridget, otherwise St. Bride. And unless, &c.

And the Agreement is such, (that is to say) That the said B. and M. have acknowledged the said Messuages, with the Appurtenances, &c. as in a Fine from a Man and his Wife to two.

A Præcipe of four Moieties, to wit, The first of a Manor, Messuages, &c. The second of a Prebend and Rectory. The third of the Tithes of Corn, Grain and Hay. The fourth of the Advowson of the Vicarage of the Church of D. T.

Suffex ff. Command T. T. that he justly, &c. perform to J. O. the Covenant between them made of a Moiety of the Manor of D. T. otherwise D. H. with the Appurtenances, and of 40 Messuages, 16 Potts, two Mills, two Dove-houses, 30 Gardens,

Of Fines.

‘ dens, 100 Acres of Land, 100 Acres of
 ‘ Meadow, 300 Acres of Pasture, 16 of
 ‘ Wood-Land, 16 Acres of Furze and Heath-
 ‘ Ground, 360 Acres of Fresh Marsh, 16
 ‘ Acres of Salt Marsh, a Wharf, two Passages
 ‘ or Ferries over the River of *Thames*, and a
 ‘ Rent of 100 s. with the Appurtenances, in
 ‘ *D. T. &c.* (*here name the Towns*), and also
 ‘ of a Moiety of a Prebend and Rectory of
 ‘ *D. T.* with the Appurtenances, and also of
 ‘ a Moiety of all the Tithes of Corn, Grain
 ‘ and Hay, yearly arising, growing or renew-
 ‘ ing in *D. T.* and also of a Moiety of the
 ‘ Advowson of the Church of *D. T.* And
 ‘ unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said *T. T.* hath acknowledged
 ‘ the said Moieties, with the Appurtenances,
 ‘ to be the Right of, &c.’

*A Fine of an Annual Rent of 36 l. (Part
 of an Annual Rent of 100 l.)*

Wiltshire, ff. ‘ **C**ommand *W. G.* and *H.* his
 ‘ Wife, that justly, &c. they
 ‘ perform to *R. T.* the Covenant made be-
 ‘ tween them of an annual Rent of 36 l. (Part
 ‘ of an annual Rent of 100 l.) issuing out of
 ‘ the Manor of *Oaksey*, with the Appurte-
 ‘ nances, and out of divers Messuages, Lands,
 ‘ and Tenements, in the Parish of *Oaksey*,
 ‘ with the Appurtenances, &c. Unless, &c.

‘ And the Agreement is such, (to wit) That
 ‘ the said *W.* and *H.* have granted to the said
 ‘ *R.* and his Heirs the said Rent of 36 l. du-
 ‘ ring

‘ ring the Life of the said *H.* and that they
 ‘ have rendered to the said *R.* to hold to the
 ‘ said *R.* and his Heirs, during the Life of
 ‘ the said *H.* And moreover they the said
 ‘ *W.* and *H.* for themselves and the Heirs of
 ‘ the said *H.* warrant to the said *R.* and his
 ‘ Heirs, the said Rent of 36*l.* in manner
 ‘ as aforesaid, against them the said *W.* and
 ‘ *H.* and the Heirs of the said *H.* during the
 ‘ Life of the said *H.* And for this, &c.’

Here please to observe, That there are Words properly used in a *Pracipe* for dividing, where the *Pracipe* is of many Things, (to wit) *First* of a Manor or other Thing, mentioned first in the *Pracipe*. *Secondly*, And of a Rectory or other Thing, mentioned secondly. *Thirdly*, Moreover of a Messuage or other Thing: And for the fourth Thing, And also, and if there be more to begin again with And of a Rectory, &c. (or as the Case is); and so on as often as you have Occasion. But to return after this Digression.

A Fine upon two Writs of Covenant of eleven Cottages in London, and one Messuage in Middlesex, acknowledged by the Word Tenements in the Concord.

London, ff. ‘ **C**ommand *R. F.* and *M.* his
 ‘ Wife, that justly, &c. they
 ‘ perform to *C. B.* Gentleman, the Covenant,
 ‘ &c. of eleven Cottages with the Appurte-
 ‘ nances in the Parish of *St. Stephen, Cole-*
 ‘ *man-street.* And unless, &c.’

Midd. J. 'Command the same Persons,
' that justly, &c. they perform
' to the same Person the Covenant, &c. of
' a Messuage, with the Appurtenances, in the
' Parish of St. Sepulchre without Newgate.
' And unless, &c.

' And the Agreement is such, (that is to
' say) That the said *R.* and *M.* have acknow-
' ledged the said Tenements with the Appur-
' tenances to be the Right of the said *C.* as
' those which the said *C.* hath of the Gift of
' the said *R.* and *M.* and those they have re-
' mised and quit-claimed from them the said
' *R.* and *M.* and their Heirs, to the said *C.*
' and his Heirs for ever. And moreover the
' said *R.* and *M.* have granted for themselves
' and the Heirs of the said *R.* that they will
' warrant to the said *C.* and his Heirs the
' said Tenements with the Appurtenances,
' against the said *R.* and *M.* and the Heirs
' of the said *R.* and against the Heirs of *W. F.*
' Esq; deceased, Father of the said *R.* and
' *M. F.* Esq; deceased, Grandfather of the
' said *R.* for ever. And for this, &c.'

*Of 20 Acres of Fresh Marsh, by the Word
Tenements in the Concord.*

Kent, to 'Command *W. P.* Esq; and *M.*
wit, 'his Wife, that justly, &c. they
' perform to *S. J.* the Covenant, &c. of 20
' Acres of Fresh Marsh with the Appur-
' tenances in *H.* And unless, &c.

' And

‘ And the Agreement is such, (to wit) That
 ‘ the said *W.* and *M.* have acknowledged the
 ‘ said Tenements with the Appurtenances to
 ‘ be the Right of the said *S.* And those, &c.’
 (as before).

A Fine of two Messuages, &c. the first Vesture of 20 Acres of Meadow, and Common of Pasture for 20 Cattle and 900 Sheep.

Somer. to **C**OMMAND *A. B.* and *C.* his
 wit, ‘ *Wife*, that justly, &c. they
 ‘ perform to *D. E.* Gentleman, the Covenant,
 ‘ &c. of two Messuages, four Gardens, two
 ‘ Orchards, 200 Acres of Land, 200 Acres
 ‘ of Meadow, 100 Acres of Pasture, 22 Acres
 ‘ of Wood-Land, the first Vesture of 20
 ‘ Acres of Meadow, and Common of Pasture
 ‘ for 20 Cattle and 900 Sheep, with the Ap-
 ‘ purtenances, in *D.* and *W.* And unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said *A.* and *C.* have acknow-
 ‘ ledged the said Tenements, Vesture, and
 ‘ Common of Pasture, with the Appurte-
 ‘ nances, to be the Right, &c. as those, &c.
 ‘ And moreover, &c. have granted, &c. the
 ‘ said Tenements, Vesture, and Common of
 ‘ Pasture, with the Appurtenances, against the
 ‘ said *A.* and *C.* and the Heirs of the said *A.*
 ‘ for ever. And for this, &c.’

And moreover, &c. have granted, &c. the said Tenements, Vesture, and Common of Pasture, with the Appurtenances, against the said A. and C. and the Heirs of the said A. for ever. And for this, &c.’

G 4 *A Fine*

A Fine de Droit tantum of an Annual Rent issuing out of the Pews, Seats, &c. in a Chapel.

Yorkshire, ss. 'C Ommend I. H. Gentleman, and M. his Wife, that justly, &c. they perform to G. S. Gentleman, the Covenant made between them of an annual Rent of 48*l.* issuing out of the Pews, Seats and Galleries, in the Chapel of St. P. in S. and of the Rents and Profits thereof with the Appurtenances. And unless, &c.

' And the Agreement is such, (to wit)
' That the said I. and M. have acknowledged
' the said Rent to be the Right of the said
' G. and have granted that the said Rent
' (which J. D. Clerk, on the Day when this
' Agreement was made, holds for the Term
' of his Life, or until his Resignation, Cession
' or Deprivation of the Curacy of the said
' Chapel, of the Inheritance of the said M.
' and which on his Death, Resignation, Cession
' or Deprivation, ought to revert to the
' said I. and M.) shall immediately (after the
' Death, Resignation, Cession or Deprivation
' of the said J. D.) wholly remain to the said
' G. and his Heirs for ever; To hold the
' said Rent from and immediately after the
' Death, Resignation, Cession or Deprivation
' of the said J. D. unto the said G. his
' Heirs and Assigns for ever. And moreover
' the said I. and M. have granted for themselves
' and the Heirs of the said M. that
' they will warrant to the said G. and his
' Heirs

‘ Heirs the said Rent in Manner as aforesaid,
‘ against them the said I. and M. and the
‘ Heirs of the said M. for ever.’

*A Fine from a Man and his Wife of cer-
tain Tenements, and Common of Pasture
for Cattle without Number, with War-
ranty against the Heirs of the Husband,
and against the Heirs of his Father,
Grandfather, Great Uncle, and Great
Grandfather, and all others.*

M. to ‘ **C**ommand J. R. and S. his Wife,
wit. ‘ that justly, &c. they perform to
‘ J. L. Knight and Baronet, the Covenant, &c.
‘ of 10 Messuages, 10 Gardens, 100 Acres
‘ of Land, 10 Acres of Meadow, 30 Acres
‘ of Pasture, and Common of Pasture for all
‘ Cattle, with the Appurtenances, in H. B.
‘ &c. And unless, &c.

‘ And the Agreement is such, (that is to
‘ say) That the said J. R. and S. have acknow-
‘ ledged the said Tenements and Common of
‘ Pasture, with the Appurtenances, to be the
‘ Right of the said J. L. as those which the
‘ same J. hath of the Gift of the said J. R.
‘ and S. and those they have remised and quit-
‘ claimed from them and the Heirs of the said
‘ J. R. to the said J. L. and his Heirs for
‘ ever. And moreover the said J. R. and
‘ S. have granted for themselves and the
‘ Heirs of the said J. R. that they will war-
‘ rant to the said J. L. and his Heirs the
‘ said Tenements, and Common of Pasture,
‘ with the Appurtenances, against the said J.
‘ R. and S. and the Heirs of the said J. R.
‘ and

Of fines.

and against the Heirs of J. R. Knight and Baronet, deceased, Father of the said J. R. and against the Heirs of J. R. Esq; deceased, Grandfather of the said J. R. and against the Heirs of G. R. Gentleman, Great Uncle of the said J. R. and against the Heirs of R. R. deceased, Great Grandfather of the said J. R. and against all others claiming by them the said J. R. J. R. J. R. and G. R. or any of them for ever. And for this, &c.

Of the third Part of a Manor, &c. for a Term of 500 Years, by a Fine sur Concessit, with Warranty against the Heirs of the Feme.

K. to **C**ommand J. L. Clerk, and M. his wit, **C**Wife, that they justly, &c. hold with T. L. Esq; the Covenant of the third Part of the Manor of D. with the Appurtenances, and of 10 Messuages, two Gardens, two Orchards, 300 Acres of Land, 20 Acres of Meadow, 200 Acres of Pasture, and 30 Acres of Wood, with the Appurtenances, in, &c. (*naming the Places*). And unless, &c.

And the Agreement is such, (that is to say) That the said J. and M. have granted to the said T. the said third Part with the Appurtenances; To have and to hold to the said J. from the Feast-Day of the Birth of St. John the Baptist last past until the End of the Term of 500 Years from thence next ensuing and fully to be compleat and ended, without Impeachment of or for any Manner of Waste; Yielding and paying

ing therefore yearly to the said *J.* and *M.*
and the Heirs of the said *M.* a Pepper Corn
at the Feast of the Nativity of our Lord
Christ, during the whole Term aforesaid, if
the same shall be demanded: And the said *J.*
and *M.* and the Heirs of *M.* will warrant to the
said *T.* the said third Part with the Appurte-
nances as aforesaid, against the said *J.* and *M.*
and the Heirs of the said *M.* during the whole
Term aforesaid. And for this, &c.

*A Fine sur Concessit of the Moiety of a
Manor, &c. and of Common of Pasture,
and Fishing for 60 Years, if the Feme
shall so long live, with Warranty against
the Feme.*

Staff. to *C*ommand *T. H. Esq;* and *J.*
wit, *C*his Wife, that justly, &c. they
perform to *W. J. Esq;* the Covenant, &c.
of a Moiety of the Manor of *S.* with the Ap-
purtenances, and 10 Messuages, 10 Gardens,
&c. and of Common of Pasture for all
Cattle, and a Free Fishery, with the Ap-
purtenances, in, &c. (*naming the Towns*).
And unless, &c.

And the Agreement is such, (that is to
say) That the said *T.* and *J.* have granted
to the said *W.* the said Moiety, Common
of Pasture, and Free Fishery, with the Ap-
purtenances; To have and to hold to the
said *W.* from the Feast of the Birth of our
Lord Christ last past until the End of the
Term of 60 Years from thence next ensu-
ing and fully to be compleat and ended, if
the said *J.* shall so long live; Yielding and
paying

' paying therefore yearly to the said T. and
 ' J. one Grain of Pepper at the Feast of St.
 ' Michael the Archangel in every Year during
 ' the Continuance of the whole Term aforesaid,
 ' if the said J. shall so long live, and the same
 ' shall be demanded; and the said T. and his
 ' Heirs will warrant to the said W. the said
 ' Moiety, Common of Pasture, and Fishery,
 ' with the Appurtenances (as aforesaid) against
 ' the said T. and his Heirs, during the said
 ' whole Term, if the said J. shall so long live;
 ' and the said T. and J. and the Heirs of the
 ' said J. will warrant to the said W. the said
 ' Moiety, Common of Pasture and Fishery,
 ' with the Appurtenances, in the Manner
 ' aforesaid, against the said T. and J. and the
 ' Heirs of the said J. during the whole Term
 ' aforesaid, if the said J. shall so long live.
 ' And for this, &c.'

*Of an Annual Rent issuing out of several
 Manors, Messuages, &c. 40s. Rent, and
 Free Fishing.*

Berks, to ' Command T. L. and M. his
 wit, ' C Wife, A. H. Gentleman, H.
 ' H. Gentleman, and R. H. Gentleman, that
 ' they justly, &c. hold with C. D. and W. B.
 ' Gentleman, the Covenant between them
 ' made of an annual Rent of 100*l.* issuing of
 ' and out of the Manors of T. and F. with the
 ' Appurtenances; and of and out of 10 Mes-
 ' suages, 10 Cottages, 10 Barns, a Dove-
 ' house, five Gardens, five Orchards, 100
 ' Acres of Land, 200 Acres of Meadow, 200
 ' Acres of Pasture, three Acres of Wood,
 ' 100 Acres of Furze and Heath Ground,
 ' and

‘ and 40 s. Rent, with the Appurtenances, in
 ‘ *T.* and *F.* and also of and out of a Free
 ‘ Fishery in the Water of *O.* with the Appur-
 ‘ tenances in *T.* and *F.* And unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That they the said *T.* and *M.* *A. H.* and
 ‘ *R.* have acknowledged the said Rent to be
 ‘ the Right of the said *C.* as that which the
 ‘ said *C.* and *W.* have of the Gift of the said
 ‘ *T.* and *M.* *A. H.* and *R.* and those they
 ‘ have remised and quit-claimed from them
 ‘ and their Heirs to the said *C.* and *W.* and
 ‘ the Heirs of the said *C.* for ever. And
 ‘ moreover the said *T.* and *M.* have granted
 ‘ for themselves and the Heirs of the said *M.*
 ‘ that they will warrant to the said *C.* and *W.*
 ‘ and the Heirs of the said *C.* the said Rent
 ‘ against them the said *T.* and *M.* and the
 ‘ Heirs of the said *M.* for ever: And further
 ‘ the said *A.* hath granted for himself and his
 ‘ Heirs, that they will warrant to the said *C.*
 ‘ and *W.* and the Heirs of the said *C.* the said
 ‘ Rent against the said *A.* and his Heirs for
 ‘ ever. And furthermore the said *H.* hath
 ‘ granted for himself and his Heirs, that they
 ‘ will warrant to the said *C.* and *W.* and the
 ‘ Heirs of the said *C.* the said Rent against the
 ‘ said *H.* and his Heirs for ever: And also
 ‘ the said *R.* hath granted for himself and his
 ‘ Heirs, that they will warrant to the said *C.*
 ‘ and *W.* and the Heirs of the said *C.* the said
 ‘ Rent against the said *R.* and his Heirs for
 ‘ ever. And for this, &c.’

Note; There are four Words for the Begin-
 ning of every Paragraph in the Concord, (to
 wit); First, *And moreover,* Second, *And fur-*
ther.

ther. Third, *And furthermore.* And for the Fourth, *And also.* And if there be more, to begin again, as may be observed by the Precedents.

A Fine sur Concessit for 99 Years from four Conusors to one, if the Wife of the first Conusor shall so long live, of a Manor, Borough, Messuages, &c. a Rectory and an Advowson.

M. to **C**ommand *R. H. and H. his Wife, wit.* *J. M. Esq, and J. C. that justly,* *&c.* they perform to *J. W. Gent.* the Covenant, *&c.* of the Manor of *W. B.* otherwise, *&c.* with the Appurtenances, and of the Borough of *W. B.* *&c.* otherwise, *&c.* and moreover of 200 Messuages, 10 Tofts, two Mills, 200 Gardens, 1000 Acres of Land, 200 Acres of Meadow, 3000 Acres of Pasture, 30 Acres of Wood, 100 Acres of Furze and Heath Ground, a Rent of 10*l.* 19*s.* 9*d.* and Common of Pasture for all Sorts of Cattle, with the Appurtenances, in *W. B. &c.* (*naming the Towns*): And also of the Rectory of *W. B.* otherwise, *&c.* with the Appurtenances, and of the Advowson of the Church of *W. B.* otherwise, *&c.* And unless, *&c.*

And the Agreement is such, (that is to say) That the said *R. H. and H. J. M. and J. C.* have granted to the said *J. W.* the said Manor, Borough, Tenements, Rent, Common of Pasture and Rectory with the Appurtenances, and the Advowson aforesaid; To have and to hold to the same *J.* from the
Feast-

' Feast-Day of the Nativity of our Lord Christ
 ' last past until the End of the Term of 99
 ' Years from thence next ensuing and fully to
 ' be compleat and ended, if the said *H.* shall
 ' live so long; Yielding and paying therefore
 ' yearly unto the said *J. M.* and *J. C.* and the
 ' Heirs of the said *J. M.* one Grain of Pepper at
 ' the Feast of St. Michael the Archangel in
 ' every Year during the said whole Term, if
 ' demanded, and if the said *H.* shall so long
 ' live; and the said *R. H.* and *H.* and the
 ' Heirs of the same *R.* will warrant to the said
 ' *J. W.* the said Manor, Borough, Tenements,
 ' Rent, Common of Pasture and Rectory with
 ' the Appurtenances, and the said Advowson,
 ' as aforesaid, during the said whole Term, if
 ' the said *H.* shall so long live; and the said
 ' *J. M.* and his Heirs will warrant to the said
 ' *J. W.* the said Manor, &c. (as before); as
 ' aforesaid, during the said whole Term, if
 ' the said *H.* shall so long live; and lastly, the
 ' said *J. C.* and his Heirs will warrant to the
 ' said *J. W.* the said Manor, Borough, Tene-
 ' ments, Rent, Common of Pasture and Rec-
 ' tory with the Appurtenances, and the said
 ' Advowson, as is aforesaid, during the said
 ' whole Term, if the said *H.* shall so long live.
 ' And for this, &c.'

*A Fine to two of the Moiety of a Moiety
 of 20 Acres of Meadow and 10 of
 Pasture.*

City of Coventry, ' **C**ommand *J. S. Gent.* and
 to wit. ' *D.* his Wife, that justly
 ' and without Delay they perform to *H. L.* and
 ' *J. M.* the Covenant between them made of
 ' the

‘ the Moiety of a Moiety of 20 Acres of
 ‘ Meadow and 10 Acres of Pasture with the
 ‘ Appurtenances in the City of Coventry. And
 ‘ unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said *J. S.* and *D.* have acknow-
 ‘ ledged the said Moiety with the Appurte-
 ‘ nances to be the Right of the said *H.* as those
 ‘ which the said *H.* and *J. M.* have of the Gift
 ‘ of the said *J. S.* and *D.* and those they have
 ‘ remised and quit-claimed from them the said
 ‘ *J. S.* and *D.* and their Heirs to the said *H.* and
 ‘ *J. M.* and the Heirs of the said *H.* for ever.
 ‘ And moreover the said *J. S.* and *D.* have
 ‘ granted for themselves and the Heirs of the
 ‘ said *J.* that they will warrant to the said *H.*
 ‘ and *J. M.* and the Heirs of the said *H.* the
 ‘ said Moiety with the Appurtenances, against
 ‘ the said *J. S.* and *D.* and the Heirs of the said
 ‘ *J.* and against the Heirs of *A. S.* deceased,
 ‘ Mother of the said *J.* and against *W. S.* de-
 ‘ ceased, Grandfather of the said *J.* and against
 ‘ all others claiming by them the said *J. S.*
 ‘ and *D.* *A.* and *W.* or any of them for ever.
 ‘ And for this, &c.’

Note; Warranties be sometimes general, *i. e.*
 against all Men; sometimes against all except
 some Persons; sometimes against some Persons
 only; sometimes against every Cognizor and
 his Heirs severally; and sometimes against one
 of the Cognizors and his Heirs only; &c.

An Abstract of the Exemplification of a Fine of a Manor, Messuages, &c. of a Rectory and Tithes, &c. of the Advowson of the Vicarage and a Pension of 20s. yearly issuing out of the said Vicarage.

Leicester, to **M**ichaelmas 9 George the Second, King, &c. An Exemplification of a Fine between J. and T. and others upon Covenant, &c. of the Manor of B. with the Appurtenances, and of 11 Messuages, seven Cottages, a Mill, a Dove-house, 11 Gardens, six Orchards, 380 Acres of Land, &c. a Rent of 60s. View of Frank-pledge and whatsoever belongs to View of Frank-pledge with the Appurtenances in B. and of the Rectory of B. with the Appurtenances; moreover, of all and all Manner of Tithes of Grain, Hay, Hemp and Flax yearly arising, growing or renewing in B. and also of the Advowson of the Vicarage of the Church of B. and of a Pension of 20s. yearly issuing out of the Vicarage of the Church of B. whereupon a Plea of Covenant, &c. to wit, that the said Deforcients have acknowledged the said Manor, Tenements, Rent, View of Frank-pledge, and whatsoever belongs to View of Frank-pledge, and Rectory with the Appurtenances and Tithes, Advowson and Pension aforesaid, to be the Right, &c. they warrant against the said T. and A. and the Heirs of the said T. and against the Heirs of J. S. deceased, Father of the said T. and against the
H Heirs

Of Fines.

‘ Heirs of J. S. deceased, Grandfather of the
 ‘ said F. for ever. *Tested Day of*
in the 9th Year of King George the Second.

*A Fine from several Conusors to three of the
 third Part of the Moiety of a Castle,
 Manors, &c. also of the third Part of
 the Moiety of Tithes; also of the third
 Part of the Moiety of the Advowsons of
 several Churches, and the third Part of
 the Moiety of the Advowsons of the Vi-
 carages of several Churches, with double
 and special Warranties by every Cognizor
 and his Wife.*

Lincoln, to ‘ **C**ommand H. B. Esq; and L.
 ‘ *wit.* his Wife, S. U. Esq; and R.
 ‘ his Wife, J. P. Gent. and J. his Wife, A.
 ‘ W. Gent. and D. his Wife, and J. D. Gent.
 ‘ and C. his Wife, that they justly, &c. per-
 ‘ form to R. J. Gent. S. C. Gent. and A. C.
 ‘ Gent. the Covenant, &c. of the third Part
 ‘ of a Moiety of the Castle of A. and Manors
 ‘ of A. and B. with the Appurtenances, and of
 ‘ 100 Messuages, 20 Cottages, &c. 100 Acres
 ‘ of Moor, a Rent of 20*l.* a Free Warren,
 ‘ Common of Pasture for all Manner of Cat-
 ‘ tle, View of Frank-pledge, Courts Leet,
 ‘ Courts Baron, the Goods and Chattels of
 ‘ Felons, Felons of themselves, Waifs, E-
 ‘ strays, Fairs, Markets and Tolls in A. B. C.
 ‘ D. &c. and also the third Part of a Moiety
 ‘ of all and all Manner of Tithes whatsoever,
 ‘ yearly arising, growing or renewing in the
 ‘ Parishes of A. B. C. D. &c. and of the third
 ‘ Part of a Moiety of the Advowsons of the
 ‘ Churches

‘ Churches of *A. B. C. D. &c.* and also of
 ‘ the third Part of a Moiety of the Advow-
 ‘ sons of the Vicarages of the Churches of *L.*
 ‘ *M. N. D. &c.* And unless, *&c.*

‘ And the Agreement is such, (that is to
 ‘ say) That the said *H. and L. S. and R. J.*
 ‘ and *J. A. and D. and J. and C.* have ac-
 ‘ knowledged the said third Parts of the said
 ‘ several Moieties to be the Right of the said
 ‘ *R.* as those which the said *R. S. and A.* have
 ‘ of the Gift of the said *H. and L. S. and R.*
 ‘ *J. and J. A. and D. and J. and C.* and those
 ‘ they have remised and quit-claimed from
 ‘ them the said *H. and L. S. and R. J. and J.*
 ‘ *A. and D. and J. and C.* to the said *R. S. and*
 ‘ *A. and the Heirs of the said R.* for ever.
 ‘ And moreover the said *H. and L.* have
 ‘ granted for themselves and the Heirs of the
 ‘ said *L.* that they will warrant to the said *R.*
 ‘ *S. and A. and the Heirs of the said R.* the
 ‘ said third Parts of the said Moieties against
 ‘ the said *H. and L.* and the Heirs of the said
 ‘ *L.* and against all Men for ever. And fur-
 ‘ ther, the said *S. and R.* have granted for
 ‘ themselves and the Heirs of the said *R.* that
 ‘ they will warrant to the said *R. S. and A.*
 ‘ and the Heirs of the said *R.* the said third
 ‘ Parts of the said Moieties against the said
 ‘ *S. and R.* and the Heirs of the said *R.* and
 ‘ against all Men for ever. And furthermore
 ‘ the said *J. and J.* have granted for them-
 ‘ selves and the Heirs of the said *J.* that they
 ‘ will warrant, *&c. (as before)* against the said
 ‘ *J. and J.* and the Heirs of the said *J.* and
 ‘ against the Heirs of *R. N.* deceased, Father
 ‘ of the said *J.* for ever. And also the said
 ‘ *A. and D.* have granted for themselves and

the Heirs of the said D. that they will warrant to the said R. &c. (as before) against the said A. and D. and the Heirs of the said D. and against all others claiming by J. N. deceased, Brother of the said D. for ever. And moreover the said J. and C. have granted for themselves and the Heirs of the said C. that they will warrant to the said R. &c. (as before) against the said J. and C. and the Heirs of the said C. and against all others claiming by them the said J. and C. for ever. And for this, &c.

The Form of the Indenture of a Fine made by the Chirographer.

THIS is the final Agreement made in the Court of our Lord the King at Westminster, in three Weeks from the Day of St. Michael in the 20th Year of the Reign of George the Second, by the Grace of God, of Great Britain, France and Ireland King, Defender of the Faith, &c. before John Willes, Thomas Abney, &c. (naming the rest of the Justices) and other faithful Subjects of our Lord the King then and there present, between A. H. Plaintiff and C. G. Esq. Defendant, of four Messuages, (naming the Particulars as mentioned in the Præcipe) whereupon a Plea of Covenant was summoned between them in the same Court, (to wit) That the said C. hath acknowledged the said Tenements with the Appurtenances to be the Right, &c. (as in the Concord) And for this Acknowledgment, Remise, Quit-claim, Warranty, Fine and Agreement, the said A. hath given to the said C. 160*l*. Sterling.

A Fine

A Fine from Husband and Wife to three of three Manors and several Tenements, Habendum the first Manor to all the Cognizees for 99 Years from a Day to come, and Habendum a Moiety of the other two Manors and Tenements to all the Cognusees from a further Day to come, for the Term of 99 Years, and Habendum the other Moiety from a Day to come a Year after for 99 Years.

Essex, to 'Command C. H. Esq; and F. his wit. 'C Wife, that they justly, &c. 'perform to B. V. Gent. V. B. Gent. and S. A. 'Gent. the Covenant, &c. of the Manors of 'G. B. and F. with the Appurtenances, and of '30 Messuages, 20 Tenements, 10 Cottages, three 'Mills, 30 Gardens, 30 Orchards, 100 Acres 'of Land, 200 Acres of Pasture, 150 Acres 'of Wood, and 300 Acres of Marsh-Lands 'with the Appurtenances, in G. B. and F. And 'unless, &c.

'And the Agreement is such, (that is to 'say) That the said C. and F. have granted to 'the said B. V. and S. the said Manor of G. 'with the Appurtenances; To have and to 'hold the said Manor of G. with the Appurtenances to the said B. V. and S. from the '8th Day of December next ensuing until the 'End of the Term of 99 Years from thence 'next ensuing and fully to be compleat and 'ended; Yielding and paying therefore yearly to the said C. and F. and the Heirs of the 'said C. one Grain of Pepper at the Feast of

‘ St. *Thomas* the Apostle in every Year during
 ‘ the said whole Term, if demanded; And to
 ‘ have and to hold a Moiety of the said Ma-
 ‘ nors of *B.* and *F.* and the Tenements afore-
 ‘ said with the Appurtenances, to the said *B.*
 ‘ *V.* and *S.* from the Feast of the Annunciation
 ‘ of the blessed Virgin *Mary* which will be in
 ‘ the Year of our Lord until the End of
 ‘ the Term of 99 Years from thence next en-
 ‘ suing and fully to be compleat and ended;
 ‘ Yielding and paying therefore yearly to the
 ‘ said *C.* and *F.* and the Heirs of the said *C.*
 ‘ one Grain of Pepper at the Feast of St. *Tho-*
 ‘ *mas* the Apostle in every Year during the
 ‘ whole Term afore said, if demanded; And
 ‘ to have and to hold the other Moiety of the
 ‘ said Manors of *B.* and *F.* and Tenements
 ‘ afore said with the Appurtenances, to the said
 ‘ *B. V.* and *S.* from the Feast of the Annun-
 ‘ ciation of the blessed Virgin *Mary* which
 ‘ shall be in the Year of our Lord until
 ‘ the End of the Term of 99 Years from
 ‘ thence next ensuing and fully to be com-
 ‘ pleat and ended; Yielding and paying there-
 ‘ fore yearly to the said *C.* and *F.* and the
 ‘ Heirs of the said *C.* one Grain of Pepper at
 ‘ the Feast of St. *Thomas* the Apostle in every
 ‘ Year during the whole Term afore said, if
 ‘ demanded: And the said *C.* and *F.* and the
 ‘ Heirs of the said *C.* will warrant to the said
 ‘ *B. V.* and *S.* the said Manors and Moieties
 ‘ with the Appurtenances, (in Manner afore-
 ‘ said) against them the said *C.* and *F.* and the
 ‘ Heirs of the said *C.* during the whole of the
 ‘ said Terms. And for this, &c.

A Præcipe

A Præcipe of three Parts of six Messuages, six Cottages, &c. and of the third Part of Frank-pledge, the third Part of a Rectory, and the third Part of an Advowson.

M. to ‘ **C**ommand *J. T.* that justly and
wit. ‘ without Delay he perform to *C.*
 ‘ *D.* the Covenant between them made of
 ‘ three fourth Parts of six Messuages, six Cot-
 ‘ tages, two Mills, &c. with the Appurte-
 ‘ nances in *D. O.* and *W.* and of the third Part
 ‘ of the View of Frank-pledge, the Goods
 ‘ and Chattels of Waifs, Estrays, the Goods
 ‘ and Chattels of Felons of themselves, (or
 ‘ Murderers of themselves) of Fugitives, Deo-
 ‘ dands and Treasure Trove, with the Ap-
 ‘ purtenances, in *D.* &c. Moreover of the
 ‘ third Part of the Rectory of the Church of
 ‘ *H.* with the Appurtenances, and also of the
 ‘ Third of the Advowson of the Vicarage of
 ‘ the Church of *H.* And unless, &c.’

Præcipe of the Moiety of a Manor (amongst other Things.)

Dorset, to ‘ **C**ommand *T. J. Esq;* that he
wit. – ‘ justly, &c. perform to *R. N.*
 ‘ *N. B.* and *W. G.* the Covenant, &c. of the
 ‘ Manors of *H. W. B.* &c. with the Appur-
 ‘ tenances, and of 16 Messuages, &c. More-
 ‘ over of the Rectory of *C.* with the Appur-
 ‘ tenances, and also of a Moiety of the Ma-
 ‘ nor of *S.* with the Appurtenances. And un-
 ‘ less, &c.

Of fines.

‘ And the Agreement is such, (to wit) That
 ‘ the said T. hath acknowledged the said Ma-
 ‘ nor, Tenements, Rectory and Moiety with
 ‘ the Appurtenances, to be the Right, &c.’

*A Præcipe of Messuages, &c. a Wharf,
 and two Passages over the Thames, of
 the Moiety of a Manor, of 100s. Rent,
 and of the Advowson of several Churches.*

Essex, to ‘ **C**ommand P. H. Baronet, J. M.
 wit. ‘ **E**sq; and R. C. Gent. that they
 ‘ justly, &c. perform to J. W. Gent. and T.
 ‘ B. Gent. the Covenant, &c. of 10 Messu-
 ‘ ages, &c. 200 Acres of Fresh Marsh Lands,
 ‘ 10 Acres of Salt Marsh Lands, a Wharf
 ‘ and two Passages over the River of Thames,
 ‘ with the Appurtenances, in W. T. &c. and
 ‘ of a Moiety of the Manor of W. T. other-
 ‘ wise T. with the Appurtenances; and more-
 ‘ over of a Rent of 100s. with the Appur-
 ‘ tenances, and also of the Advowsons of
 ‘ the Churches of W. T. S. B. and N. And
 ‘ unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said P. J. M. and N. have ac-
 ‘ knowledged the said Tenements, Wharf,
 ‘ Passages and Moiety with the Appurtenances,
 ‘ and the said Rent and Advowsons, to be
 ‘ the Right, &c.’

*A Præcipe of the Moiety of a Manor
 and the Moiety of the Advowson of a
 Church, &c.*

‘ **C**ommand B. C. Viscount C. in the King-
 ‘ dom of Ireland, and E. his Wife, and
 G. B.

‘ G. B. Esq; and M. his Wife, that they justly,
 ‘ &c. perform to C. P. Lord St. John of B.
 ‘ and Sir J. N. Baronet, the Covenant, &c.
 ‘ of eight Messuages, &c. and of all and all
 ‘ Manner of Tithes whatsoever, yearly arising,
 ‘ growing or renewing in H. G. &c. More-
 ‘ over of a Moiety of the Manor of H. with
 ‘ the Appurtenances, and also of a Moiety
 ‘ of the Advowson of the Church of H. And
 ‘ unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said B. and E. and G. and
 ‘ M. have acknowledged the said Tenements,
 ‘ Tithes and Moieties with the Appurtenances,
 ‘ to be the Right, &c.’

*A Præcipe upon three Writs of Covenant,
 of the Moiety of a Manor, the Moiety of
 an Hundred, and of several Messuages,
 &c. (amongst other Things) of the Moiety
 of Common of Pasture, and of the Moiety
 of View of Frank-pledge, Goods and Chat-
 tels of Felons and Fugitives, Felons of
 themselves, Deodands, Waifs, Liberties
 and Privileges in the County of Stafford.
 (2.) Of the Moiety of several Messuages,
 &c. in the County of Surrey; and, (3.)
 Of the Moiety of several Messuages, &c.
 in the City of New Sarum, and of free
 Fishing in the River Avon.*

Stafford. to ‘ C Ommand T. W. Esq; and E.
 wit: ‘ his Wife, that they justly
 ‘ and without Delay perform to J. M. Esq;
 ‘ the Covenant between them made of a
 Moiety

‘ Moiety of the Manor of *H.* with the Appurtenances, and of a Moiety of the Hundred of *H.* with the Appurtenances; Moreover of a Moiety of 100 Messuages, &c. (*naming the rest of the Parcel*); and also of a Moiety of Common of Pasture for all Cattle, and of a Moiety of View of Frankpledge, Goods and Chattels of Felons and Fugitives, Felons of themselves, Deodands, Waifs, Liberties and Privileges, with the Appurtenances, in *H.* &c. And unless, &c.

Surry, to ‘ **C**ommand the same Persons wit, ‘ that they justly, &c. perform to the same Persons the Covenant between them made of a Moiety of eight Messuages, &c. (*here naming the Parcels*) with the Appurtenances, in *B.* &c. And unless, &c.

Wilts, to ‘ **C**ommand the same Persons that wit, ‘ they justly, &c. perform to the same Persons the Covenant between them made of a Moiety of six Messuages, &c. (*naming the Parcels*) with the Appurtenances in the City of *New Sarum*, and of a Moiety of a Free Fishery in the River of *Avon*. And unless, &c.

‘ And the Agreement is such, (that is to say) that the said *R.* and *E.* have acknowledged the said Moieties with the Appurtenances to be the Right, &c.

Of Lands in the Isle of Ely.

Cambridges. ‘ **C**ommand *T. D.* and *E.* his to wit, ‘ Wife, *M. W.* and *A.* his Wife, and *W. A.* that justly, &c. they perform

‘ form to J. C. Gentleman, and T. B. Gentle-
 ‘ man, the Covenant, &c. of one Messuage,
 ‘ one Cottage, one Garden, one Orchard, 30
 ‘ Acres of Land, &c. with the Appurtenances,
 ‘ in the Isle of Ely. And unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said T. D. and E. M. and A.
 ‘ have acknowledged the said Tenements, and
 ‘ Common of Pasture, with the Appurte-
 ‘ nances, to be the Right, &c.’

*A Præcipe of divers Manors, the Scites of
 two dissolved Monasteries, the Scite of a
 dissolved Priory, of several Messuages,
 &c.*

Lincoln. to ‘ Command J. M. Gentleman,
 wit, ‘ C that he justly, &c. perform
 ‘ to G. L. and W. D. the Covenant, &c. of
 ‘ the Manors of B. &c. with the Appurte-
 ‘ nances, and the Scites of the two dissolved
 ‘ Monasteries of B. and F. with the Appurte-
 ‘ nances, and also the Scite of the dissolved
 ‘ Priory of H. &c. with the Appurtenances;
 ‘ Moreover of 200 Messuages, &c. (naming
 ‘ the Particulars) with the Appurtenances in
 ‘ B. &c. (naming the Towns) and the Recto-
 ‘ ries of U. and K. with the Appurtenances,
 ‘ and of all and all Manner of Tithes arising,
 ‘ growing, or renewing in S. and T. and also
 ‘ of the Advowson of the Rectory of H. And
 ‘ unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That the said J. hath acknowledged the
 ‘ said Manors, Scites, Tenements, Rent, Com-
 ‘ mon

‘ mon of Pasture, Rectories and Tithes, with
 ‘ the Appurtenances, and the said Advowson,
 ‘ to be the Right, &c.’

*A Fine of a Preceptory or Commandry of a
 Manor, of divers Manors, Hundreds,
 of Tithes, Advowsons of Churches, and
 the Advowson of a Vicarage.*

Norf. to ‘ **C**ommand *W. C. Esq.* and *F. C.*
 wit, ‘ Gentleman, and *M.* his Wife,
 ‘ that they justly, &c. perform to *J. M.* Gen-
 ‘ tleman, and *R. C.* Gentleman, the Cove-
 ‘ nant, &c. of the Preceptory, otherwise Com-
 ‘ mandry, of *C.* with the Appurtenances, and
 ‘ of the Manors of *W.* &c. with the Appurte-
 ‘ nances; Moreover of the Hundreds of *W.*
 ‘ and *G.* with the Appurtenances, and also of
 ‘ 20 Messuages, &c. with the Appurtenances,
 ‘ in *W.* &c. And of all and all Manner of
 ‘ Tithes whatsoever yearly arising, growing
 ‘ or renewing in *G.* &c. Moreover of the
 ‘ Advowsons of the Churches of *W. D.* and *M.*
 ‘ and also of the Advowson of the Vicarage of
 ‘ the Church of *C.* And unless, &c.’

‘ And the Agreement is such, (that is to
 ‘ say) That the said *W. F.* and *M.* have ac-
 ‘ knowledged the said Preceptory, otherwise
 ‘ Commandry, Manors, Hundreds, Tene-
 ‘ ments and Tithes with the Appurtenances,
 ‘ and Advowsons aforesaid, to be the Right
 ‘ of the said *J.* as those which the said *J.* and
 ‘ *R.* have of the Gift of the said *W. F.* and
 ‘ *M.* and those they have remised and quit-
 ‘ claimed from them the said *W. F.* and *M.*
 ‘ and their Heirs to the said *J.* and *R.* and
 ‘ the

the Heirs of the said *J.* for ever. And moreover the said *W.* hath granted for himself and his Heirs, that they will warrant to the said *J.* and *R.* and the Heirs of the said *J.* the said Preceptory, otherwise Commandry, Manors, Hundreds, Tenements and Tithes, with the Appurtenances, and Advowsons afore said, against the said *W.* and his Heirs for ever. And further the said *F.* and *M.* have granted for themselves and the Heirs of the said *F.* that they will warrant to the said *J.* and *R.* and the Heirs of the said *J.* the said Preceptory, otherwise Commandry, Manors, Hundreds and Tithes, with the Appurtenances, and Advowsons afore said, against the said *F.* and *M.* and the Heirs of the said *F.* for ever. And for this, &c.

A Præcipe of the Moiety of two Messuages, and of the Moiety of a Moiety of a Manor; of two Parts of a Rectory, and the Tithes of Corn, Hay, Wool and Lamb, and all other Tithes whatsoever.

Midd. to Command *R. W.* that he justly, wit, *C* &c. perform to *T. W.* the Covenant, &c. of a Moiety of two Messuages, two Gardens, &c. and of a Moiety of a Moiety of the Manor of *K.* with the Appurtenances; Moreover of two Parts in three Parts to be divided of the Rectory of *B.* with the Appurtenances, also of all and all Manner of Tithes of Corn, Hay, Wool and Lamb, and all other Tithes whatsoever yearly growing, renewing and happening in *K.* and *D.* And unless, &c.

And

Of Fines.

‘ And the Agreement is such, (that is to
 ‘ say) That the said R. hath acknowledged
 ‘ the said Moieties, Parts and Tithes, with
 ‘ the Appurtenances, to be the Right of the
 ‘ said T. &c.

*Præcipe of a Manor, Park, and Scite of
 the late Monastery of Ramsey, with several
 other Things.*

Hunt. ff. ‘ Command H. W. otherwise C. Esq;
 to wit, ‘ C and A. his Wife, that they justly,
 ‘ and so forth, perform to J. M. Gentleman,
 ‘ the Covenant, &c. of the Manor of Ram-
 ‘ sey with the Appurtenances, and of the
 ‘ Park of Ramsey with the Appurtenances;
 ‘ Moreover of the Scite of the late Monastery
 ‘ of Ramsey, with the Appurtenances, and
 ‘ also of 10 Messuages, 16 Cottages, &c. and
 ‘ of the Rectory of Ramsey, with the Appur-
 ‘ tenances. And unless, &c.

‘ And the Agreement is such, (that is to
 ‘ say) That they the said H. and A. have ac-
 ‘ knowledged the said Manor, Park, Scite,
 ‘ Tenements and Rectory, with the Appurte-
 ‘ nances, to be the Right, &c.’

*A Præcipe of two Messuages in the City of
 Chester.*

City of Chester, ‘ Command T. N. and M.
 to wit, ‘ C his Wife, that they justly,
 ‘ &c. perform to S. O. the Covenant between
 ‘ them made of two Messuages with the Ap-
 ‘ purtenances in the Parish of the Holy and
 ‘ Undivided

‘ Undivided Trinity in the said City of Chester
‘ and County of the same City. And unless,
‘ &c.’

‘ And the Agreement is such, (that is to
‘ say) That the said T. and M. have acknow-
‘ ledged the said Messuages with the Appur-
‘ tenances to be the Right, &c.’

T. N.

M. N.

Taken and acknowledged the
Day of in the 22d Year
of the Reign of King George
the Second over Great Bri-
tain, &c. the said M. ha-
ving been first solely and sepa-
rately examined before me

A. B. Mayor.

Another for the County Palatine of Chester.

County of Chester, ‘ Command T. N. &c.
to wit, ‘ (as above) with the
‘ Appurtenances in T. in the said County.
‘ And unless, &c.’

‘ And the Concord is such, (that is to say)
‘ That the said T. and M. have acknowledged
‘ the said Tenements with the Appurtenances
‘ to be the Right of the said S. As those,
‘ &c.’

A Fine

A Fine from nine Comors (whereof the two first are a Duke and his Lady, and the two next an Earl and his Lady) to a Duke and Earl, of an Honour, several Manors, the Scites of two dissolved Monasteries, of divers Messuages, Cottages, Tofts, a Wind-mill, Dove-houses, Gardens, Orchards, Land, Meadow, Pasture, Wood, Furze and Heath Ground, Moorish Ground, Marsh Lands, Elder-Wood, Land covered with Water, Rent, Common of Pasture, Free Fishery, Liberty of Foldage, Courts Leet, Courts Baron, and View of Frank-pledge, of a Rectory, of a Chapel, of the Advowsons of two Churches, with six Warranties.

— to ‘ **C**ommand G. Duke of B. and
 wit, ‘ **M.** his Wife, **J.** Earl of D.
 ‘ and **K.** his Wife, **J. P.** Esq; and **S.** his Wife,
 ‘ **R. W.** Gentleman, and **E.** his Wife, and **F.**
 ‘ **H.** Gentleman, that they justly and without
 ‘ Delay perform to G. Duke of D. and R.
 ‘ Earl of C. the Covenant made between them
 ‘ of the Honour of T. with the Appurte-
 ‘ nances, and of the Manors of T. P. and S.
 ‘ with the Appurtenances; Moreover of the
 ‘ Scites of the late Monasteries of B. and T.
 ‘ and also of 100 Messuages, 100 Cottages,
 ‘ 15 Tofts, a Wind-mill for Grain, four Dove-
 ‘ houses, 100 Gardens, 60 Orchards, 2000 and
 ‘ 300 Acres of Land, 300 Acres of Mea-
 ‘ dow, 200 Acres of Pasture, 200 Acres of
 ‘ Wood, 300 Acres of Furze and Heath
 ‘ Ground, 300 Acres of Moorish Ground,
 ‘ 1000

1000 Acres of Marsh Lands; 100 Acres of
 Elder-Wood, 100 Acres of Land covered
 with Water, a Rent of 100 s. Common of
 Pasture for all Manner of Cattle; a Free Fi-
 shery; the Liberty of two Foldages, Courts
 Leet, Courts Baron, and View of Frank-
 pledge, with the Appurtenances in ———
 (*naming the Towns*); and of the Rectory of
 T. with the Appurtenances; Moreover of
 the Chapel of H. with the Appurtenances,
 and also of the Advowsons of the Churches
 of S. and H. And unless, &c.

And the Agreement is such, (that is to
 say) That the said Duke of B. and M. and
 Earl of D. and K. J. and S. R. and E. and
 F. have acknowledged the said Honour, Ma-
 nors, Scites, Tenements, Rent, Common
 of Pasture, Fishery, Liberty, Courts-Leet,
 Courts-Baron and View of Frank-pledge,
 Rectory and Chapel, with the Appurte-
 nances and Advowsons afore said, to be the
 Right of the said Duke of D. as those which
 the said Duke of D. and Earl of C. have of
 the Gift of the said Duke of B. and M. Earl
 of D. and K. J. and S. R. and E. and F. and
 those they have remised and quit-claimed
 from them the said Duke of B. and M. Earl
 of D. and K. J. and S. R. and E. and F. and
 their Heirs, to the said Duke of D. and Earl
 of C. and the Heirs of the said Duke of D.
 for ever. And moreover the said Duke of
 B. and M. have granted for themselves
 and the Heirs of the said Duke of B. that
 they will warrant to the said Duke of D. and
 Earl of C. and the Heirs of the said Duke of
 D. the said Honour, Manors, &c. (*as before*)
 against the said Duke of B. and M. and the
 I Heirs

' Heirs of the said Duke of *B.* for ever. And
 ' further the said Earl of *D.* and *K.* have
 ' granted for themselves and the Heirs of the
 ' said Earl of *D.* that they will warrant to the
 ' said Duke of *D.* and Earl of *C.* and the Heirs
 ' of the said Duke of *D.* the said Honour,
 ' Manors, &c. (*as before*) against the said Earl
 ' of *D.* and *K.* and the Heirs of the said Earl
 ' of *D.* for ever. And furthermore the said
 ' *J.* and *S.* have granted for themselves and
 ' the Heirs of the said *S.* that they will war-
 ' rant to the said Duke of *D.* and Earl of *C.*
 ' and the Heirs of the said Duke of *D.* the
 ' said Honours, Manors, &c. (*as before*)
 ' against them the said *J.* and *S.* and the
 ' Heirs of the said *S.* for ever: And also the
 ' said *R.* and *E.* have granted for themselves
 ' and the Heirs of the said *R.* that they will
 ' warrant to the said Duke of *D.* and Earl of
 ' *C.* and the Heirs of the said Duke of *D.* the
 ' said Honour, Manors, &c. (*as before*) against
 ' the said *R.* *C.* *E.* and the Heirs of the said
 ' *R.* for ever. And moreover the said *R.* and
 ' *E.* have granted for themselves and the
 ' Heirs of the said *E.* that they will warrant
 ' to the said Duke of *D.* and Earl of *C.* and
 ' the Heirs of the said Duke of *D.* the said
 ' Honour, Manors, &c. (*as before*) against
 ' the said *R.* and *E.* and the Heirs of the said
 ' *E.* for ever. And further the said *F.* hath
 ' granted for himself and his Heirs, that they
 ' will warrant to the said Duke of *D.* and Earl
 ' of *C.* and the Heirs of the said Duke of *D.*
 ' the said Honour, Manors, Scites, Tene-
 ' ments, Rent, Common of Pasture, Fishery,
 ' Liberty, Courts-Leet, Courts-Baron, View
 ' of Frank-pledge, Rectory and Chapel, with
 ' the Appurtenances, and the said Advow-
 ' sons,

sons, against the said P. and his Heirs for ever. And for this, &c.

A Præcipe where the Sheriff of the County is Cognizee.

Surry, to **C**ommand C. T. Gentleman and wit, S. his Wife, that they justly, &c. perform to R. C. Esq; Sheriff of the County of Surry, the Covenant, &c. of two Messuages, &c. (naming the Parcels). And unless, &c.

And the Agreement is such (that is to say) That the said C. and S. have acknowledged the said Tenements with the Appurtenances to be the Right of the said R. &c.

Because the Cognizee was Sheriff of the County, therefore the Writ of Covenant was directed to the Coroners.

Note, That it is Felony without Benefit of Clergy (without Corruption of Blood, or Loss of Dower) to acknowledge, or procure to be acknowledged, any Fine or Recovery in the Name of any Person, not privy or consenting to the same. But this is not to extend to a Judgment acknowledged by Attorney of Record for another. 21 Jac. cap. 6.

Note, That a Fine is either (as before observed) executed by Writ of *Habere facias seisinam*, which is a Writ to the Sheriff to put the Cognizee or his Heirs in Possession; and this must be sued forth within a Year after the Fine sued forth, or after Judgment upon a *Scire facias*; or else he must have a Writ of

Scire facias, which is to be sued forth after a Year and Day after the Fine is levied, and thereby the Sheriff is to warn the Tenant to appear and shew Cause, if he can, why the Cognizee or his Heirs should not have Execution: At the Return whereof if the Tenant appear, and can shew no Cause to the contrary, the Plaintiff shall have an *Habere facias seisinam* to the Sheriff, to put him or his Heirs in Possession. Or the Cognizee, where the Fine is *sur Cognissance de Droit come ceo*, may obtain the actual Possession of the Land contain'd in the Fine by an Entry: For in this Case of a Fine executed, if the Cognizor be still in Possession of the Land whereof the Fine is levied, the Cognizee may without any Writ of *Habere facias seisinam* enter upon him, and so get the Seisin and Possession of the Land.

A Deed to lead the Uses of a Fine, where several Purchases made by different Persons are joined in one Fine to save Expence. Drawn by Counsel.

THIS Indenture of nine Parts, made the 1st Day of May in the 14th Year of the Reign of our Sovereign Lord George the Second, by the Grace of God, of Great Britain, France and Ireland King, Defender of the Faith, &c. and in the Year of our Lord 1741, between E. L. of Woolwich in the County of Kent, Carpenter, and F. his Wife, of the first Part, J. P. of Footscray in the County aforesaid, Widow, of the second Part, J. P. of Horton Kirby in the County aforesaid, Carpenter, and M. his Wife, of the third Part, W. P. of the same Place, Malster,

Malster, and M. his Wife, of the fourth
 Part, J. D. of *Asbcum Ridley* in the County
 aforesaid, Yeoman, and M. his Wife, of the
 fifth Part, M. D. of *Kingsdown* in the Coun-
 ty aforesaid, Yeoman, and A. his Wife, of
 the sixth Part, J. P. of *Whetstone* in the
 County of *Middlesex*, Baker, of the seventh
 Part, R. B. of *Shoreham* in the County of
Kent aforesaid, Yeoman, of the eighth Part,
 and J. G. of *Asbcum Ridley* aforesaid, Yeo-
 man, of the ninth Part, Witnesseth, That as
 well to the Intent and Purpose that all Join-
 tures, Dowers, Estates-Tail, Reversions and
 Remainders whatsoever had, made, raised,
 created and now in Being, of, in or upon the
 Messuages, Tenements or Cottages, Lands,
 Wood-Lands and Hereditaments herein after-
 mentioned, may be docked, discontinued
 and barred; and that the same Messuages,
 Tenements or Cottages, Lands, Wood-Lands
 and Hereditaments may be the better settled
 and conveyed to and for the several Uses,
 Intents and Purposes herein after-mentioned,
 expressed, limited and declared of and con-
 cerning the same respectively, as also for
 and in Consideration of the Sum of 5*s.* a-
 piece of lawful Money of *Great Britain*, to
 them the said E. L. and F. his Wife, J. P.
 J. P. and M. his Wife, W. P. and M. his
 Wife, J. D. and M. his Wife, M. D. and
 A. his Wife, in Hand well and truly paid by
 the said J. P. R. B. and J. G. at and before
 the Sealing and Delivery of these Presents,
 their respective Receipts whereof are hereby
 severally acknowledged, and for divers other
 good Causes and Considerations, them the
 said E. L. and F. his Wife, J. P. J. P. and
 M. his Wife, W. P. and M. his Wife, J. D.

and *M.* his Wife, and *M. D.* and *A.* his Wife
 thereunto respectively moving, the said *E. L.*
 for himself, his Heirs, Executors and Ad-
 ministrators, and for the said *F.* his Wife,
 the said *J. P.* for herself, her Heirs, Exe-
 cutors and Administrators, the said *J. P.*
 for himself, his Heirs, Executors and Ad-
 ministrators, and for the said *M.* his Wife,
 the said *W. P.* for himself, his Heirs, Exe-
 cutors and Administrators, and for the said
M. his Wife, the said *J. D.* for himself, his
 Heirs, Executors and Administrators, and
 for the said *M.* his Wife, and the said *M.*
D. for himself, his Heirs, Executors and
 Administrators, and for the said *A.* his
 Wife, do and each of them doth severally
 covenant, promise and agree to and with
 the said *J. P. R. B.* and *J. G.* and their
 Heirs, by these Presents in Manner and
 Form following, (that is to say) That he the
 said *E. L.* or his Heirs, and the said *F.* his
 Wife, the said *J. P.* or her Heirs, the said
J. P. or his Heirs, and the said *M.* his
 Wife, the said *W. P.* or his Heirs, and the
 said *M.* his Wife, the said *J. D.* or his
 Heirs, and the said *M.* his Wife, and the
 said *M. D.* or his Heirs, and the said *A.* his
 Wife, shall and will as of *Easter Term* last,
 or before the End of *Trinity Term* next en-
 suing the Date hereof, acknowledge and le-
 vy in due Form of Law before his Maje-
 sty's Justices of the Honourable Court of
 Common Pleas at *Westminster*, one or more
 Fine or Fines *sur Conusance de Droit come ceo,*
&c. with Proclamations to be thereupon had
 and made, according to the Form of the Sta-
 tute in that Case made and provided, and
 the usual Course of Fines in such Case used,
 of

of all, &c. (*mentioning all the Parcels*): And
 it is hereby declared and agreed by and be-
 tween the said Parties to these Presents, for
 themselves and their respective Heirs, that
 the said Fine or Fines so as aforesaid, or in
 any other Manner, to be had and levied of
 the said Messuages, Lands and Heredita-
 ments or any of them, and all and every
 other Fine and Fines already had and levied,
 or hereafter to be had and levied, of the said
 Messuages, Tenements or Cottages, Lands,
 Hereditaments and Premisses, and every or
 any Part thereof (whereof no Use or Uses is
 or are already declared) shall be and enure,
 and by all the said Parties to these Presents
 are hereby declared to be and enure, and
 that the Conusee or Conusees therein named,
 and his or their Heirs shall stand and be
 seised of all and singular the said Messuages
 or Cottages, Lands, Tenements, Heredita-
 ments and Premisses, to the several Uses,
 Intents and Purposes herein after-mentioned,
 limited, expressed and declared, of and con-
 cerning the same respectively, (that is to say)
 As to, for, touching and concerning all that
 Messuage or Tenement called T. with the
 Yard, Garden, Back-side and Appurtenances
 whatsoever herein before-mentioned to be
 now or late in the Tenure or Occupation of
 R. W. his Under-Tenants or Assigns, to the
 only proper Use and Behoof of him the said
 E. L. his Heirs and Assigns for ever, and to
 and for no other Use, Intent or Purpose
 whatsoever: And as to, touching and con-
 cerning all that the said Barn, Stable, Yard
 and all those the aforesaid several Pieces or
 Parcels of Land commonly called or known
 by the Name or Names of K. and D. the B.

‘ *P.* and the Grove, or by what other Name
 ‘ or Names soever the same now are, or late
 ‘ or heretofore have been called or known,
 ‘ and all other the Lands, Hereditaments and
 ‘ Premisses whatsoever herein before-mention-
 ‘ ed to be now in the Tenure or Occupation
 ‘ of *G. B.* his Under-Tenants or Assigns, to
 ‘ the only proper Use and Behoof of the said
 ‘ *J. P.* her Heirs and Assigns for ever, and
 ‘ to and for no other Use, Intent or Purpose
 ‘ whatsoever: And as to, for, touching and
 ‘ concerning all that one Messuage, Cottage
 ‘ or Tenement with the Appurtenances, herein
 ‘ before-mentioned to have been formerly in
 ‘ the Occupation of *N. D.* and all that the
 ‘ said Piece or Parcel of Land herein before-
 ‘ mentioned to have been formerly belonging
 ‘ to the said last mentioned Messuage or Te-
 ‘ nement, and all that the aforesaid Messuage
 ‘ or Tenement herein before-mentioned to have
 ‘ been lately erected and built on Part of the
 ‘ said last-mentioned Piece or Parcel of Land,
 ‘ and all and singular other the Messuages,
 ‘ Lands and Premisses herein before-mentioned
 ‘ to be situate, standing, lying and being in *D.*
 ‘ aforesaid, to the Use and Behoof of him
 ‘ the said *W. P.* and during the Term of
 ‘ his natural Life, without Impeachment of
 ‘ Waste; and from and immediately after his
 ‘ Decease, to the Use and Behoof of the said
 ‘ *M.* his Wife, for and during the Term of
 ‘ her natural Life; and from and immediate-
 ‘ ly after the Decease of the Survivor of them
 ‘ the said *W. P.* and *M.* his Wife, then to the
 ‘ Use and Behoof of the Heirs of the Body
 ‘ of the said *W. P.* on the Body of the said
 ‘ *M.* his Wife begotten or to be begotten;
 ‘ and for want of such Issue, to the only Use
 ‘ and

and Behoof of her the said *M. P.* Wife of the said *W. P.* her Heirs and Assigns for ever, and to and for no other Use, Intent or Purpose whatsoever: And as to, for, touching and concerning the aforesaid Messuage, Tenement or Cottage, several Pieces or Parcels of Land, Wood-Land, and all singular other the Hereditaments and Premises with their and every of their Appurtenances herein before-mentioned to be situate, lying and being in the several Parishes of *A.* and *F.* or in one of them, and also all that the aforesaid Messuage or Tenement, Barn, several Pieces or Parcels of Land, Wood-Ground and all and singular other the Hereditaments and Premises herein before-mentioned to be situate, lying and being in the Parish of *K.* aforesaid, to the only proper Use and Behoof of the said *J. D.* his Heirs and Assigns for ever, and to and for none other Use, Intent or Purpose whatsoever: And as to, for, touching and concerning the aforesaid Messuage or Tenement, Barn, several Pieces or Parcels of Land, and all and singular other the Hereditaments and Premises, with their and every of their Appurtenances, herein before-mentioned to be situate, standing, lying and being in the Parish of *Asbcum Ridley* aforesaid, to the only proper Use and Behoof of the said *M. D.* his Heirs and Assigns for ever, and to and for none other Use, Intent or Purpose whatsoever. *In Witness, &c.*

Another Deed to lead the Uses of a Fine.

THIS Indenture made the Day of in the Year of our Lord 1749, and in the 23d Year of the Reign of

Of Fines.

of our Sovereign Lord *George* the Second,
 by the Grace of God, of *Great Britain*,
France and *Ireland*, King, Defender of the
 Faith, &c. between *J. T.* of, &c. Gent. and
M. his Wife, of the one Part, and *S. N.*
 of, &c. Esq; of the other Part, Witnessth,
 That the said *J. T.* and *M.* his Wife, for the
 Docking, Barring and Cutting off all Estates-
 Tail of and in the Messuages and Tenements,
 Lands, Hereditaments and Premises herein
 after-mentioned, and for the Settling and Af-
 furing the same to the Use herein after-men-
 tioned and expressed concerning the same,
 and also for and in Consideration of the
 Sum of 103. of lawful Money of *Great Bri-*
tain to them the said *J. T.* and *M.* his Wife
 in Hand paid by the said *S. N.* at and before
 the Execution of these Presents, the Receipt
 whereof they do hereby acknowledge, and
 for divers other good Causes and Considera-
 tions them the said *J. T.* and *M.* his Wife
 hereunto moving, he the said *J. T.* doth
 hereby, for himself, his Heirs, Executors and
 Administrators, and for the said *M.* his Wife,
 covenant, promise and agree to and with the
 said *S. N.* and his Heirs in Manner follow-
 ing, (that is to say) that he the said *J. T.*
 and *M.* his Wife shall and will, at the pro-
 per Costs and Charges in the Law of the
 said *J. T.* as of *Michaelmas* Term last past,
 or before the End of *Hilary* Term next en-
 suing the Date hereof, acknowledge and le-
 vy in due Form of Law, before his Maje-
 sty's Justices of the Court of Common Pleas
 at *Westminster*, unto the said *S. N.* and his
 Heirs one or more Fine or Fines *sur Conu-*
zance de Droit come deo, &c. with Procla-
 mations to be thereupon had and made ac-
 cording

According to the Form of the Statute in that Case made and provided, and the usual Course of Fines for Assurance of Lands in such Cases therein used and accustomed, of all and singular the herein before granted and released Messuage or Tenement, Lands, Hereditaments and Premises, with the Appurtenances, by such Names, Number of Acres, Quantity and Quality of Land, and other Descriptions therein to be contained, to ascertain and comprize the same as shall be advised and thought proper in that behalf. And it is hereby declared and agreed by and between the said Parties to these Presents, that the said Fine or Fines so as aforesaid, or in any other Manner, or at any other Time, to be had and levied, when the same shall be levied and perfected accordingly, and all and every other Fine and Fines, Common Recoveries, Conveyances and Assurances in the Law whatsoever, already had, made, levied, suffered and executed, or to be had, made, levied, suffered and executed, of the said Messuage or Tenement, Lands, Hereditaments and Premises, or any Part or Parts thereof, either by themselves, or together with any other Lands or Hereditaments, by or between the said Parties to these Presents, any or either of them, or whereunto they or any of them were, are or shall be Parties or Privies, shall (as to the herein before-mentioned Messuage or Tenement, Lands, Hereditaments and Premises) be and enure, and shall be adjudged construed, deemed and taken to be and enure, and so are and were meant and intended to be and enure, and are hereby declared by all the said Parties to these Presents to be and enure, and the Cognizee in
the

Of Fines.

the said Fine already levied or to be levied pursuant to these Presents, and all Cognizee and Cognizees, Recoveror and Recoverors in any Fine and Fines, Recovery and Recoveries already levied and suffered, or which shall or may at any Time hereafter be levied and suffered, and his and their Heirs, shall stand and be seised of and in all and every the said Messuage or Tenement, Lands, Hereditaments and Premises, with the Appurtenances, to and for the Uses herein after limited and expressed, (that is to say) To the Use and Behoof of the said J. T. his Heirs and Assigns for ever, and to and for no other Use, Intent or Purpose whatsoever. In Witness whereof the said Parties have to these Presents interchangeably set their Hands and Seals, the Day and Year first above written.

If of Lands in the County Palatine of Chester, say, shall and will, at the proper Costs and Charges in the Law of the said J. T. at or before the next Great Session to be held for the County Palatine of Chester, acknowledge and levy before his Majesty's Justices of the said Great Session unto the said S. N. one *Fine sur Conusance de Droit come ceo, &c.* to be engrossed, sued forth and recorded, with Proclamations, according to the Course of Fines with Proclamations used for Assurance of Lands in the said County Palatine of Chester, of all, &c.

Note; It is not absolutely necessary to make Use of the Word *Use* in the Declaration of the Uses of a Fine; for any Kind of Agreement, which manifestly shews the Intent of the Parties,

ties, will be sufficient. 1 *Ld. Raym.* 290. And a Parol Declaration of the Intent of the Parties will be sufficient to hinder any Use from arising by a former Deed, where the former Deed varies from the Fine. *Ibid.* Deed, Fine and Recovery do all make but one Assurance, but each hath its several Effect. 2 *Vent.* 31.

A Deed to lead the Uses of a Fine levied to make a Tenant to the Præcipe, and to lead the Uses of a Common Recovery suffered on a Purchase.

THIS Indenture of three Parts made, &c. between D. F. of, &c. and K. his Wife, of the first Part, C. P. of, &c. and W. H. of, &c. of the second Part, and S. J. of, &c. and O. P. of, &c. of the third Part, Witnesseth, That for and in Consideration of the Sum of ——— of lawful *British* Money to the said D. F. and K. his Wife in Hand paid by the said S. J. and O. P. the Receipt whereof they do hereby acknowledge, and in Consideration also of 10s. of, &c. to the said D. F. and K. his Wife, in Hand paid by the said C. P. and W. H. the Receipt whereof is hereby acknowledged; and the said D. F. for the barring, docking, cutting off and destroying of all Estates-Tail and Remainders over, now in Being, in and upon the Messuage, Lands, Tenements and Hereditaments, herein after-mentioned, and for conveying and assuring the same Premises to the only proper Use and Behoof of the said S. J. and O. P. and their Heirs, he the said D. F. hath covenanted, granted and agreed, and by these Presents doth covenant, grant

' grant and agree, to and with the said C. P.
 ' and W. H. their Heirs and Assigns, that
 ' they the said D. F. and K. his Wife, shall
 ' and will, before the End of *Trinity* Term
 ' now next ensuing, before the King's Ma-
 ' jesty's Justices of his Court of Common
 ' Pleas at *Westminster*, in due Form of Law,
 ' levy and acknowledge unto the said C. P.
 ' and W. H. and their Heirs, or to the Heirs
 ' of one of them, one *Fine sur Conusance de*
 ' *Droit come ceo*, &c. with Proclamations to
 ' be thereupon had according to the Form of
 ' the Statute in that Case made and provided,
 ' of all those four Messuages or Tenements,
 ' &c. in the Tenure, &c. with all and singu-
 ' lar their Appurtenances, and also of the Re-
 ' version and Reversions, Remainder and Re-
 ' mainders, &c. by such Name and Names,
 ' Quantity and Number of Messuages, Acres
 ' and Things, and in such Manner and Form,
 ' as by the said C. P. and W. H. or their
 ' Counsel learned in the Law shall be reason-
 ' ably advised, or devised and required; which
 ' said Fine so to be had and levied in Man-
 ' ner aforesaid, and all and every other Fine
 ' and Fines already had, or at any Time
 ' hereafter to be had or levied of the said
 ' Premises or of any Part thereof, either by
 ' itself or jointly with any other Lands or Te-
 ' nements, by or between the said Parties to
 ' these Presents, or between them or any or
 ' either of them, and any other Person or Per-
 ' sons before the End of the said next *Trinity*
 ' Term, as for and concerning all and singu-
 ' lar the said Premises above-mentioned, with
 ' the Appurtenances, shall be and enure, and
 ' shall be adjudged, esteemed and taken to
 ' be and enure, to and for the only proper Use
 ' and

and Behoof of C. P. and W. H. their Heirs
 and Assigns, to the Intent and Purpose only
 that they may become perfect Tenants of the
 Freehold of the said Premisses, and to this
 further End, Intent and Purpose, that they
 the said C. P. and W. H. shall and will, be-
 fore the End of ——— Term next ensuing,
 permit and suffer the said S. J. and O. P. to
 sue out and prosecute one or more Writ or
 Writs of Entry *sur Disseisin en le post*, re-
 turnable before the King's Majesty's Justices
 of the said Court of Common Pleas against
 them the said C. P. and W. H. of all and
 singular the said Premisses above-mentioned,
 and of every Part and Parcel thereof, with
 the Appurtenances, by such Name and
 Names, Quantity and Number of Messuages,
 &c. (as in the Deed to lead the Uses of a
 Common Recovery in this Treatise). A Cove-
 nant that D. F. and K. his Wife, or one of
 them, are lawfully seised, and for quiet En-
 joyment, and further Assurance. In witness,
 &c.

*A Deed to lead the Uses of a Fine to be ac-
 knowledged of a Rent.*

THIS Indenture made, &c. between C.
 D. of, &c. Gentleman, and M. his
 Wife, of the one Part, and C. H. of, &c.
 of the other Part, Witnesseth, That it is co-
 venanted and agreed by and between the said
 Parties to these Presents, and the said C. D.
 for himself, his Heirs and Assigns, doth
 covenant and grant to and with the said C.
 H. his Heirs and Assigns, and the said M.
 Wife of the said C. D. doth hereby agree,
 that

Of Fines.

' that they the said C. D. and M. his Wife
 ' shall and will before the End of *Easter* Term
 ' next ensuing, at the proper Costs, &c. ac-
 ' knowledge and levy in due Form, &c. unto
 ' the said C. H. his Heirs and Assigns, one or
 ' more Fine or Fines with Proclamations, &c.
 ' of all the yearly Rent of 20*l.* issuing out of
 ' two Messuages or Tenements, &c. situate,
 ' &c. in the Possession, &c. payable, &c. and
 ' by the same Fine or Fines shall acknow-
 ' ledge the said yearly Rent to be the Right
 ' of the said C. H. and the same by the said
 ' Fine or Fines shall remise and quit-claim
 ' from them the said C. D. and M. his Wife
 ' and their Heirs, to the said C. H. and his
 ' Heirs for ever; and also that the said C. D.
 ' and M. his Wife shall by the said Fine or
 ' Fines grant for them and the Heirs of the
 ' said C. D. that they will warrant to the said
 ' C. H. and his Heirs the said Rents against
 ' them the said C. D. and M. his Wife, and
 ' the Heirs of the said C. D. for ever, as by the
 ' Counsel of the said C. H. learned in the Law
 ' shall be reasonably devised or advised and
 ' required; and it is hereby declared by, &c.
 ' or to be had, levied and acknowledged of
 ' the said Rent, shall be and enure, and shall
 ' be esteemed and taken to be and enure,
 ' and the said C. H. and his Heirs, and all
 ' and every other Person and Persons, and
 ' his and their Heirs, now standing and being
 ' seised, or which at the Time of perfecting
 ' the said Fine shall stand or be seised of the
 ' said yearly Rent, or any Part thereof, shall
 ' at all Times hereafter stand and be seised
 ' thereof, and of every Part thereof, with the
 ' Appurtenances, to the only proper Use and
 ' Behoof of the said C. H. his Heirs and As-
 ' signs

Of Fines.

signs for ever, and to and for no other Use,
Intent or Purpose whatsoever. *In Witness,*
&c.

*A Deed of Release whereby the Premises
mentioned therein are settled in strict Set-
tlement, with Liberty to grant Leases,
and a special Power to raise 400 l. and
to lead the Uses of a Fine.*

THIS Indenture made the 20th Day of
December in the 23d Year of the Reign
of our Sovereign Lord George the Second,
by the Grace of God of Great Britain, France
and Ireland, King, Defender of the Faith,
&c. and in the Year of our Lord 1749, be-
tween *W. P.* of — in the County of *Middlesex*, Esq; and *M.* his Wife, of the one
Part, and *J. B.* of — in the County of
Middlesex, Gentleman, of the other Part,
Witnesseth, That the said *W. P.* and *M.* his
Wife, for the docking, barring and cutting
off all Estates-Tail of and in the Messuage
and Tenement, Lands, Hereditaments and
Premises herein after granted and released;
and for the settling and assuring of the same
to and for the several Uses, Intents and Pur-
poses herein after-mentioned, limited and de-
clared of and concerning the same; as also
for and in Consideration of the Sum of 10 s.
of lawful Money of Great Britain, to them
the said *W. P.* and *M.* his Wife in Hand
paid by the said *J. B.* at and before the en-
sealing and Delivery of these Presents, the
Receipt whereof they the said *W. P.* and *M.*
his Wife do hereby acknowledge, and for
divers other good Causes and Considera-

K

tions,

' tions, them the said *W. P.* and *M.* his Wife
 ' hereunto moving, they the said *W. P.* and
 ' *M.* his Wife have, and each of them hath
 ' granted, bargained, sold, aliened, remised,
 ' released and confirmed, and by these Pre-
 ' sents do, and each of them doth grant, bar-
 ' gain, sell, alien, remise, release and confirm
 ' unto the said *J. B.* (in his actual Possession
 ' now being by Virtue of a Bargain and Sale
 ' thereof to him made by the said *W. P.* and
 ' *M.* his Wife for one whole Year, by Inden-
 ' ture bearing Date the Day next before the
 ' Day of the Date of these Presents, and by
 ' Force of the Statute made for transferring of
 ' Uses into Possession) and to his Heirs and
 ' Assigns, All that Capital Messuage, Malt-
 ' house and Tenement with the Appurte-
 ' nances, commonly called *Thompson's House*,
 ' or by whatsoever other Name the same is
 ' called or known; and also all that Piece or
 ' Parcel of Arable Land, with the Appurte-
 ' nances, commonly called *Thompson's Croft*,
 ' or by whatsoever other Name the same is
 ' called or commonly known, containing by
 ' Estimation four Acres and a Half more or
 ' less; and also one Piece or Parcel of Hop
 ' Ground with the Appurtenances, contain-
 ' ing by Estimation sixteen Acres more or
 ' less; and also all those several Pieces or Par-
 ' cels of Land with their Appurtenances, com-
 ' monly called *South-Fields*, or by whatsoever
 ' other Name or Names they or any of them
 ' are called or commonly known, containing
 ' by Estimation 20 Acres more or less; All
 ' which said Messuage, Lands and Premisses,
 ' are situate, standing, lying and being in—
 ' afore said in the said County of *Middlesex*,
 ' sometime in the Possession of *T. P.* Father of
 ' the

the said *W. P.* (Party hereto) and now in the
 Tenure or Occupation of the said *W. P.* his
 Assignee or Assigns, together with all Barns,
 Stables, Outhouses, Edifices, Buildings,
 Yards, Gardens, Backsides, Orchards, Ways,
 Paths, Passages, Lights, Easements, Wa-
 ters, Water-courses, Woods, Underwoods;
 Timber Trees, Hedges, Ditches, Fences,
 Commons, Privileges, Commodities, Here-
 ditaments, and Appurtenances whatsoever,
 to the said Messuage or Tenement, Lands;
 Hereditaments and Premises belonging or
 in any wise appertaining, or therewith now
 or late demised, letten, used, occupied or
 enjoyed, or accepted, reputed, deemed, ta-
 ken or known as Part or Parcel thereof, and
 the Reversion and Reversions, Remainder
 and Remainders, Rents, Issues, and Profits
 thereof, and all the Estate, Right, Title, In-
 terest, Use, Trust, Inheritance, Property,
 Claim and Demand whatsoever, both at Law
 and in Equity, of them the said *W. P.* and
M. his Wife or either of them, or of any
 Person or Persons in Trust for them or either
 of them, of, in, to or out of the said hereby
 granted and released Premises, and every
 Part and Parcel thereof, together with all and
 every the Deeds, Evidences and Writings
 whatsoever, touching or concerning the said
 Premises, which he the said *W. P.* hath in
 his Custody or Power, or can or may come
 by without Suit in Law or Equity; *To have*
and to hold the said Messuage, Malthouse
 and Tenement, Lands, and all and singular
 other the Premises herein before-mentioned
 and intended to be hereby granted and re-
 leased, with their Appurtenances, unto the
 said *J. B.* his Heirs and Assigns, to, for and

' upon the several Uses, Intents and Purposes
 ' herein after limited and declared of and con-
 ' cerning the same, (that is to say) To the Use
 ' and Behoof of the said *W. P.* and his As-
 ' signs for and during the Term of his natu-
 ' ral Life without Impeachment of or for any
 ' Manner of Wasse; and from and after the
 ' Determination of that Estate, To the Use and
 ' Behoof of the said *J. B.* his Heirs and As-
 ' signs, during the Life of the said *W. P.*
 ' Upon Trust to support and preserve the con-
 ' tingent Uses and Estates herein after limited
 ' from being defeated or destroyed, and for
 ' that Purpose to make Entries, or bring Ac-
 ' tions, as the Case shall require, but in Trust
 ' for the said *W. P.* and to permit him and
 ' his Assigns to receive the Profits thereof du-
 ' ring his Life; and from and immediately
 ' after the Decease of the said *W. P.* then To
 ' the Use and Behoof of the said *M. P.* the
 ' Wife of the said *W. P.* for and during the
 ' Term of her natural Life; and from and af-
 ' ter the Determination of that Estate, To the
 ' Use of the said *J. B.* and his Heirs, during
 ' the Life of the said *M. P.* Upon Trust to
 ' support and preserve the contingent Uses
 ' and Estates herein after limited from being
 ' defeated or destroyed, and for that Purpose
 ' to make Entries, or bring Actions, as the Case
 ' shall require, but in Trust for the said *M.*
 ' *P.* and to permit her and her Assigns to re-
 ' ceive the Profits thereof during her Life; and
 ' from and immediately after the Decease of
 ' the Survivor of them the said *W. P.* and *M.*
 ' his Wife, then To the Use and Behoof of all and
 ' every the Son and Sons of the Body of the said
 ' *W. P.* on the Body of the said *M.* his Wife be-
 ' gotten

gotten or to be begotten, severally as Tenants in Common, and not as Joint-tenants, and of the several and respective Heirs of the Body and Bodies of the said Son or Sons lawfully to be begotten; and if any of the said Sons shall happen to die without Heirs of his or their Body or Bodies, Then as for and concerning the Part or Parts of such Son or Sons so dying in the said Premises, To the Use of the other or others of the said Sons severally and respectively as Tenants in Common, and not as Joint-tenants, and of the several and respective Heirs of their several Bodies lawfully to be begotten; and if there shall be but one such Son; or all of them but one shall die without Issue, then as concerning all the said Premises, To the Use of such one Son, and the Heirs of his Body lawfully to be begotten; and for Default of such Issue, then To the Use and Benefit of all and every the Daughter and Daughters of the Body of the said W. P. on the Body of the said M. P. his Wife begotten or to be begotten, severally as Tenants in Common, and not as Joint-tenants, and of the several and respective Heirs of the Body and Bodies of the said Daughter or Daughters lawfully to be begotten; and if any of the said Daughters shall happen to die without Heirs of her or their Body or Bodies, then as for and concerning the Part or Parts of such Daughter so dying in the said Premises, To the Use of the other or others of the said Daughters severally and respectively as Tenants in Common, and not as Joint-tenants, and of the several and respective Heirs of their several Bodies lawfully to be begotten; and if there shall be but one such

Of Fines.

Daughter, or all of them but one shall die
 without Issue, then as concerning all the said
 Premises, To the Use of such one Daughter
 and the Heirs of her Body lawfully to be
 begotten; and for Default of such Issue, To
 the Use of the said *M.* the Wife of the said
W. P. and of her Heirs and Assigns for ever.
Provided always, That it shall and may be
 lawful to and for the said *W. P.* from Time
 to Time during his Life, and after his De-
 cease, for the said *M.* his Wife during her
 Life, by Indenture under their respective
 Hands and Seals, to demise, lease or grant
 all or any Part or Parts of the said Premises
 hereby assigned and conveyed, or mentioned
 so to be, in Possession and not in Reversion, to
 any Person or Persons whatsoever, for any
 Term of Years not exceeding 21 Years from
 the making of the same, so as upon every
 such Demise, Lease or Grant, there be re-
 served to continue due and payable, during
 the Term to be thereby demised, the best
 and most improved yearly Rent that can rea-
 sonably be had or gotten for the same, and
 so as such Lease or Leases, or any of them,
 be not made punishable of Waste by any
 Clause therein to be contained. *Provided*
also, That it shall and may be lawful to and
 for the said *W. P.* and *M.* his Wife, or the
 Survivor of them, at any Time or Times
 hereafter, by any Deed or Deeds, Writing
 or Writings under their Hands and Seals, or
 the Hand and Seal of the Survivor of them,
 to be duly executed in the Presence of, and
 attested by, two or more credible Witnesses,
 to levy and raise the Sum of 400 *l.* of law-
 ful Money of Great Britain, or such Part or
 Parts thereof as they or the Survivor of
 them

them shall from Time to Time think fit,
 (but not to raise more than the Sum of 400l.
 in the whole) by assigning and mortgaging
 of the said Premisses, or any Part thereof,
 for any Term or number of Years, and
 thereby to charge the said Premisses or any
 Part thereof with the Payment of the said
 Sum of 400l. or such Part or Parts thereof
 as they the said *W. P.* and *M.* his Wife, or
 the Survivor of them, shall or may from
 Time to Time raise as aforesaid, together
 with Interest for the same; any Thing here-
 in contained to the contrary thereof in any
 wise notwithstanding: And for the more ef-
 fectual Conveying and Assuring the Messu-
 age, Lands, Tenements, Hereditaments and
 Premisses, to and for the several Uses herein
 before-mentioned, limited and declared of
 and concerning the same; he the said *W.*
P. for himself and for the said *M.* his Wife,
 their Heirs, Executors and Administrators,
 doth covenant and agree to and with the
 said *J. B.* his Heirs and Assigns, by these
 Presents, That they the said *W. P.* and *M.*
 his Wife shall and will, as of *Michaelmas*
 Term last past, or before the End of *Hilary*
 Term next ensuing the Date hereof, ac-
 knowledge and levy in due Form of Law,
 before his Majesty's Justices of the Court of
 Common Pleas at *Westminster*, unto the said
J. B. and his Heirs, one or more Fine or
 Fines *sur Conuzance de Droit come ceo, &c.*
 with Proclamations to be thereupon had and
 made, according to the Form of the Statute
 in that Case made and provided, and the
 usual Course of Fines for Assurance of Lands
 in such Cases therein used and accustomed
 of all and singular the herein before granted

' and released Messuage or Tenement, Lands,
 ' Hereditaments and Premises, with the Ap-
 ' purtenances, by such Names, Number of
 ' Acres, Quantity and Quality of Land, and
 ' and other Descriptions therein to be con-
 ' tained to ascertain and comprize the same,
 ' as shall be advised and thought proper in
 ' that Behalf, which said Fine or Fines as
 ' aforesaid, or in any other Manner, or at any
 ' other Time to be had and levied, when the
 ' same shall be levied and perfected accord-
 ' ingly, and all and every other Fine and
 ' Fines, Common Recoveries, Conveyances
 ' and Assurances in the Law whatsoever, al-
 ' ready had, or at any Time heretofore had,
 ' made, levied, suffered and executed of the
 ' said herein before granted and released Mes-
 ' suage or Tenement, Lands, Hereditaments
 ' and Premises, by or between the said Par-
 ' ties to these Presents, any or either of them,
 ' or any others, or together with any other
 ' Lands or Hereditaments, as to the said
 ' herein before granted and released Messuage
 ' or Tenement, Lands, Hereditaments and
 ' Premises, shall be and venture, and shall be
 ' adjudged, construed, deemed and taken to
 ' be and enure, and is and are hereby agreed
 ' and declared to be and enure, to and for
 ' the several Uses, Intents and Purposes here-
 ' in before mentioned, limited and declared
 ' of and concerning the same, and to and for
 ' no other Use, Intent and Purpose whatso-
 ' ever. *In Witness, &c.*

This Deed
 was made and signed by the said Parties
 in the County of Middlesex, in the City of London,
 the day and year first above written, and the same
 was acknowledged by the said Parties before me,
 a Justice of the Peace for the County of Middlesex,
 and was attested by me, and the Seal of the said
 County of Middlesex, was thereunto annexed.
 In Testimony whereof, I have hereunto set my
 Hand and the Seal of the said County of Middlesex,
 the day and year first above written.

A Deed to declare the Uses of a Fine.

THIS Indenture made, &c. between T.
 J. of, &c. Gent. of the one Part,
 and O. S. of, &c. of the other Part: Where-
 as the said T. J. did in Trinity Term now
 last past levy before his Majesty's Justices
 of the Court of Common Pleas at *Westmin-*
ster, one *Fine sur Conuſance de Droit come ceo*,
 &c. with Proclamations, according to the
 Form of the Statute in ſuch Caſe made and
 provided, unto the ſaid O. S. and his Heirs,
 of all thoſe ten Meſſuages, &c. ſituate, ly-
 ing and being in — and of all other the
 Lands, Tenements and Hereditaments of
 him the ſaid T. J. in the ſaid County of L.
 by the Names and Descriptions of ten Meſ-
 ſuages, &c. (*as in the Fine*) as by the ſaid
 Fine remaining of Record in his Majesty's
 ſaid Court of Common Pleas at *Westminster*,
 Relation being thereunto had, will more ful-
 ly appear: Now this Indenture witneſſeth,
 And it is hereby Covenanted, Declared and
 Agreed, by and between the ſaid Parties to
 theſe Preſents, That the ſaid Fine ſo levied of
 the ſaid Meſſuages, Lands, Tenements, He-
 reditaments and Premies in Manner as afore-
 ſaid, and all and every Fine and Fines of the
 ſaid Meſſuages, Lands, Tenements and He-
 reditaments, wherein or whereunto they the
 ſaid T. J. and O. S. were or are Parties or
 Privy, ſhall be and enure, and ſhall be con-
 ſtrued, deemed and taken to be and enure,
 and is and are hereby declared to be and
 enure, to the only proper Uſe and Behoof
 of the ſaid T. J. his Heirs and Assigns for
 ever, and to and for no other Uſe, Intent
 or

‘ or Purpose whatsoever. In Witness where-
 ‘ of, &c.’

*A Release of Lands to J. C. in Trust; and
 to make the Title clear; all the Family
 join and release their Claim, in order to
 vest the Premises in the Son, and to lead
 the Uses of a Fine.*

‘ **T**HIS Indenture made, &c. 1750. be-
 ‘ tween J. D. of, &c. and M. his Wife,
 ‘ W. C. of, &c. eldest Son and Heir apparent
 ‘ of the said J. D. and M. D. E. of, &c. and
 ‘ E. F. of, &c. of the one Part, and J. C. of,
 ‘ &c. of the other Part, *witneseth*, That for
 ‘ and in Consideration of the natural Love and
 ‘ Affection which the said J. D. and M. his
 ‘ Wife have and bear towards the said W. C.
 ‘ their said Son, and for and in Consideration
 ‘ of the Sum of 5*l.* a-piece of lawful Mo-
 ‘ ney of Great Britain to the said J. D. and
 ‘ M. his Wife, W. C. the Son, D. E. and E.
 ‘ F. in Hand, &c. by the said J. C. the Re-
 ‘ ceipts, &c. and for the vesting the Premises
 ‘ herein after granted and released unto the
 ‘ said W. C. the Son and his Heirs, and for di-
 ‘ vers other good, &c. them the said J. D.
 ‘ and M. his Wife, W. C. and E. F. hereunto
 ‘ especially moving, they the said J. D. and
 ‘ M. his Wife, W. C. D. E. and E. F. have,
 ‘ and each and every of them *both*, granted,
 ‘ bargained, sold, released, ratified and con-
 ‘ firmed, and by, &c. unto the said J. C. (in
 ‘ his actual Possession now being by Virtue of
 ‘ a Bargain and Sale to him thereof, by the
 ‘ said J. A. and W. A. the Son, for the Term
 ‘ of one whole Year, &c.) and to his Heirs,
 ‘ All,

' All, &c. To have, &c. the said Manor and
 ' Rectory of *W.* with the Appurtenances, and
 ' all and singular the Messuages, &c. hereby
 ' granted, &c. or mentioned or intended so
 ' to be, with their and every of their Appur-
 ' tenances, and every Part and Parcel thereof,
 ' unto the said *J. C.* his Heirs and Assigns,
 ' to the only proper Use and Behoof of the
 ' said *J. C.* his Heirs and Assigns for ever:
 ' And it is hereby covenanted, concluded and
 ' agreed by and between all the said Parties
 ' to these Presents, and the said *J. D.* for him-
 ' self and the said *M.* his Wife and their Heirs,
 ' and the said *W. C. D. E.* and *E. F.* for them-
 ' selves severally and respectively, and for
 ' their several and respective Heirs, do each
 ' and every of them, to and with the said *J.*
 ' *C.* and his Heirs in Manner following, (that
 ' is to say) doth covenant and agree, That
 ' they the said *J. D.* and *M.* his Wife, *W. C.*
 ' *D. E.* and *E. F.* shall and will, before the
 ' End of next *Michaelmas* Term, in due Form
 ' of Law, levy and acknowledge unto the said
 ' *J. C.* and his Heirs, before his Majesty's Ju-
 ' stices of the Court of Common Pleas at *West-*
 ' *minster*, one or more Fine or Fines *sur Conu-*
 ' *zance*, &c. with Proclamations, according to
 ' the Form of the Statute in that Case made
 ' and provided, and the usual Course of Fines
 ' for the Assurance of Lands, of the said Ma-
 ' nor and Rectory of *W.* with the Appurte-
 ' nances, and of all and singular other the
 ' Messuages, Lands, &c. with their and every
 ' of their Appurtenances, hereby granted and
 ' released, or mentioned or intended so to
 ' be, by such apt and convenient Names, De-
 ' scriptions, Quantities, Qualities, Number of
 ' Acres and Contents, and in such Sort, Man-

'ner and Form as shall be thought Expedi-
 'ent, which said Fine or Fines to or in any
 'other Manner to be had and levied, and all
 'and every other Fine or Fines, Recovery
 'and Recoveries at any Time heretofore had,
 'levied or suffered of the same Premises or
 'any Part thereof, either alone or together
 'with any other Messuages, Lands, Tene-
 'ments or Premises, by or between the said
 'Parties to these Presents, or any or either of
 'them, or whereunto they, or any or either of
 'them is, are, shall or may be Parties or
 'Privy, shall be and enure, and shall be ad-
 'judged, deemed and taken to be and enure,
 'and so are and were intended to be and
 'enure, To the only proper Use and Behoof
 'of the said *W. C.* his Heirs and Assigns for
 'ever, and to and for none other Use, Intent
 'and Purpose whatsoever. *In Witness, &c.*

Now I proceed to treat of the Uses of a
 Fine, and here I think it proper to give the
 Reader the Definition, and an Account of the
 Rise of Uses, as I find the same mentioned in
 the Reports of my Lord Raymond.

An Use (says the Reporter) is defined a meer
 equitable Interest, where one has the Estate in
 the Land, and another takes the Profits. The
 Invention of them was of late Time, and the
 Cause of the Invention was to avoid the Sta-
 tute of *Mortmain*. Uses only affected the
 Consciences of the Feoffees to the Uses, and
 the Clergy having then Power over the Con-
 sciences of Men, and sitting in Chancery until
 the Time of *Henry* the eighth, compelled Men
 to perform their Agreements. These Uses
 were kept secret until they were discovered in
 the Contentions between the Houses of Lan-
 caster

caster and York, at which Time they were found very beneficial to save Mens Estates from Eschears, and were tolerated by both Parties for the common Convenience, so that the greatest Part of the Estates in *England* were conveyed to Uses; and in the Reports of the Time of *Edward IV.* there are more of them mentioned than at any Time before, and so being generally used they were licked into Form, and became the common Conveyance.
2 *Ld. Raymond* 799.

Uses may be declared several Ways, either upon Transmutation of the Possession or without it, if there is a Transmutation of Possession, as by Fine, Feoffment or Recovery, the Declaration will be sufficient without Consideration or Deed; but if there is no Transmutation of Possession, then there must be some obligatory Agreement or valuable Consideration, because the Use depending intirely upon Equity, that Court will not compel Performance, unless there is a valuable Consideration or binding Agreement. A Bargain and Sale will raise an Use upon Payment of Money, but Consideration of Blood will not raise an Use without Deed. *Moore* 687. *Callard* ver. *Callard*. 1 *Ld. Raym.* 290.

Though there is a Variance between a Deed and a Fine, yet if nothing appears to the contrary, the Fine shall be taken to be to the Use of the Deed, and in that Case the Deed is not only Evidence of the Uses, but the Fine is by Construction of Law to the Use of the Deed.
1 *Ld. Raym.* 289.

Where the Uses of a Fine or Recovery precedent are declared by a Deed subsequent, the Cognizor and his Heirs are estopped to say, that the Fine was to the Use of the Cognizor and

Of Fines.

and his Heirs, &c. but a Stranger shall not be estopped to say that, but in Case of a Fine varying from a precedent Deed, no Person is estopped to aver against the Deed, that the Fine was to other Uses. 1 Ld. Raym. 290.

Though the Deed of a Feme Covert to lead the Uses of a Fine is not valid in Law, yet the Deed having relation to the Fine, takes Validity from thence and will conclude her, because the Deed is supported by the Fine. *Jones against Morley*, (in *Comyns* he is called *Moseley*) 1 Ld. Raym. 289.

If a Fine be levied by a Wife without her Husband, her Declaration alone of the Uses will not be good. *Barnardiston's Rep. in Chan.* 191.

A Deed of Husband and Wife, that all Agreements relating to such Lands shall cease, will not revoke a former Deed leading the Uses of a future Fine, unless there be a Variance. 1 Ld. Raym. 289.

If *A.* bargains and sells to *B.* and his Heirs, and the Deed is not inrolled, or if a Deed of Feoffment is not executed by Livery, if a Fine be levied between the same Parties, the Deed of Bargain and Sale, or Deed of Feoffment will declare the Use of the Fine. 1 Ld. Raym. 291.

If an Agreement is that *A.* for so much Money shall have the Land, this will raise an Use. 8 Co. 93. 1 Vent. 137. 1 Ld. Raym. 291.

A parol Declaration of the Intent of the Parties, will be sufficient to hinder any Use from arising by a former Deed, where the former Deed varies from the Fine. 1 Ld. Raym. 291.

But if it be covenanted by Deed to levy a Fine of Land to such Persons and Uses, and the Fine be levied accordingly, no Proof whatever

ever by parol shall be admitted, to evince that this Fine was levied to other Uses than those contained in the Deed; but a subsequent Deed may alter the Uses of a Fine, though a parol Agreement cannot; but if there is a Variance between the Deed and the Fine in any Circumstance, then the Parties may aver the Fine to be levied to other Uses. 1 *Ld. Raym.* 289. And where a Fine varies from the Description in a former Deed, as of Time, Place, &c. a new Deed will declare the Uses. *Ibid.* 290. *Comyns* 30.

Where there are two Deeds to declare the Use of a Fine after levied, the Uses shall arise upon the last. *Comyns* 30.

That upon a Fine every one may declare and dispose the Use of the Land according to the Estate that he hath in it; for the Use doth follow the Ownership of the Land as the Shadow doth the Body. 2 *Co.* 57.

Where the Uses of a Fine are agreed, there it must go to the Uses agreed upon, but where no Uses are agreed upon, but only that it is agreed a Fine shall be levied, and not said to what Use, and a Fine is levied accordingly, there the Law appoints the Use according to Conscience. 2 *Co.* 37, 38. *Dyer* 18. *Co. Lit.* 271. *Moor* 472, 473, 842, 843.

For if the Conusee pay Money to the Conusor at the Time of the Fine levied, and there be no Use declared, nor is it set forth to what Use the Fine shall be, in this Case the Law will construe the Fine to the Use of the Conusee to whom the Fine is levied.

But if there be no Money paid by the Conusee, nor any Use declared, it shall be to the Use of the Cognizor; for nothing appears whereby it can be supposed that the Parties
had

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had any Intention the Estate in the Lands should be altered by the Fine, but that the Fine was levied in Corroboration of the Title of the Cognizor. *Bendl.* 134, 135. *Style's Pract. Reg.* 147.

An Use may be averred without a Deed upon a *Fine sur Render*, for a Deed is but to shew the Intent of the Parties, which may appear as well without as by Deed, for the Uses of a Fine may be declared within the Fine itself without any Indenture. *Poph.* 105. *Hutt.* 112.

If an Infant or a Man *de non sana Memoria* shall declare the Use of a Fine levied by him, this Declaration is good so long as the Fine shall continue in Force. 2 *Co.* 57. *Hughes's Abridg.* 802. c. 4.

The Render of a Fine may not be alledged to any other Use than what is expressed upon the Fine, unless the contrary appears by Writing. *Poph.* 104, 105. *Bulst.* 318, 319.

Concerning the Declaration of Uses by Husband and Wife, see 2 *Co.* 57. *Dyer* 290. *Moor* 196, 347. 2 *Co.* 56.

Note; There cannot be two Uses in *Esse* of one and the same Land. *Dav. Abr. of Co. Lit.* 295.

Infancy cannot be alledged against a Deed which leads the Uses of a Fine, so long as the Fine continues in Force, because the Deed is supported by the Fine. 1 *Ld. Raym.* 289.

Note; An Use and a Trust were all the same Thing (till the Statute of 27 *H.* 8.) at Common Law, but they are distinguished by the said Act.

How

How a Fine operates by way of Bar.

THE Statutes of Fines are the 18 *Ed.* 1.
4. 34 *Ed.* 3. 16. 1 *R.* 3. 7. 4 *H.* 7.
24. 32 *H.* 8. 36.

And for a short Explication of these Statutes please to observe;

That the Persons to be barred by a Fine are the Parties to the same, the Privies and Strangers. That the Parties are really barred, altho' they be Ideots or *non Compos mentis*. Co. Lit. 247. Co. Inst. 2 Part 516.

So the Fines of Men that have the Lethargy, old doting Persons, drunken Men, &c. (tho' they ought not to be received) yet being received are unavoidable and binding. 17 *Ed.* 3. 5. 78. 17 *Aff.* 17. *Plowd.* 368. 4 *Co.* 124.

The Parties themselves to the Fine (if of the Age of 21) are for ever bound up by the Fine, and have no Time given them by Claim to avoid it; but an Infant is preserved during his Minority, so that if he pass away his Estate by Fine, it may be reversed at any Time during his Minority, but not afterwards. 17 *E.* 3. 52, 78, 59. *Ed.* 3. 5. 2 *Bulst.* 320.

And it has been said, that such Persons as are blind, deaf or dumb, either naturally or accidentally, if they can express their Mind in Writing, may in some Cases be barred by their own, or the Fines of another Man. *Sed Q.*

Q. If Commissioners knowingly taking such Persons Acknowledgments of a Fine, are not subject to the Censures of the Court. See 2 *Vent.* 30.

How Privies are barred by the Operations of a Fine.

PRIVIES, being Heirs and Executors to the Parties (void of Impediment at the
L Time

Note; The Word Privies does not extend to Heirs in Tail, but only to Heirs in Fee. Jones's Rep. 241, 242.

Time of the Fine levied or not) if they claim by the same Title that their Ancestor had that levied the Fine, are barred for ever by the Fine.

And by Privies are also understood Privies in Blood, not only the Heir at the Common Law, but Heirs by Custom, as *Burrough-English*, Gavelkind, &c. who claim as Heirs by Custom. But by Privies are not intended such Privies in Estate as are Jointenants, Donor and Donee, Lessor and Lessee, or the like. 2 Co. Inst. 516.

The Son can never have Remedy upon a Fine levied in the Time of his Father and the five Years after the Proclamations passed, but in Case where the Right begins first to be a Right in the Son. *Popb. Rep.* 113. *Plowd.* 369.

Note; Where a Man mortgages his Land and continues in Possession, and afterwards levies a Fine, such Fine and Non-Claim for five Years, will not bar the Mortgagee.

Privies in Estate, and Blood barred by the Ancestor's Fine.

PRIVIES or Heirs in Estate and Blood, as he that is Heir to him to whom the Land doth or should descend, are within these Statutes, and will be barred by the Fine of their Ancestor of that Land: And so also shall Privies in Estate that are not Privies in Blood, as where one hath Land in *Burrough-English*, and levies a Fine of it, hereby the younger Son is barred.

If my Father disseise my Grandfather of an Estate in Fee, and thereof levy a Fine with Proclama-

Proclamations, and first my Grandfather and then my Father die, I am now barred as Privy, for that I cannot otherwise convey myself to the Lands than as Heir to my Father, the Cognizor. *Dyer 3.*

But one that makes his Title as Heir by another, and not by the Cognizor, may not be barred. *1 Cro. 377.*

If Husband and Wife, Tenants in special Tail, have Issue, and the Feme die, and the Baron marry another Wife and have Issue, and levy a *Fine sur Cognizance de Droit come ceo*, and thereby take an Estate in special Tail, and Remainders over, &c. and die: In this Case the Issue by the first Wife is barred; for that he is Privy in Blood notwithstanding the Continuance of Possession in the Husband. *Dyer 354.*

So if Lands be given to Baron and Feme in special Tail, the Remainder to the Right Heirs of the Baron in Fee, and he alone levieth a Fine with Proclamations of it; by this the Issue in Tail may be barred; for he cannot otherwise convey himself to the Tail and Descent in, than as Heir of the Body of Father and Mother. *Dyer 3. 251. Bro. Fines 109.*

Privy in Blood, and not in Estate.

HE that is Privy in Blood only, and not in Estate also, is not within the Statutes before-mentioned, neither shall he be barred by the Fine: For Example, If Lands be given to a Man and the Heirs Female of his Body, and he hath a Son and a Daughter, and the Son levy a Fine and die without Issue, this is no Bar to the Daughter; for though she be Heir to his Blood, yet she is no Heir to the Estate,

nor hath she Need to make her Conveyance to it by him; but if the Father had levied, it would have been otherwise. *Trin. 21 Jac. C. B. Godfrey's Case.*

Who are properly called Estrangers to Fines.

SUCH Estrangers as are to be concluded by a Fine, are all Persons whatsoever that either have present Right and no Impediment, or that have present Right and Impediments, as Infants, Persons in Prison, *non sana Memoriae*, &c. Or they are such as have no present but future Right upon Cause precedent, *i. e.* whose Right or Title cometh or descended to them after the Proclamations; or they are such as have neither present nor future Right at the levying of the Fine, by reason of any Matter had afore the Fine, whose Right groweth either intirely after the Proclamations, or partly before and partly after.

How Estrangers to Fines are barred, see *Claim and Bar.*

Of Claim and Bar.

THE Estates to be barred by a Fine are either Estates by the Common Law, or by Custom as Copyhold; and those either in Fee-Simple, Fee-Tail, for Life or for Years. The Estates also of Tenants by *Elegit*, by Statute *Merchant* and *Staple*, and the Estate of a Guardian and Executors that are to hold Land 'till Debts and Legacies paid. *5 Co. 123. Saffin's Case. 2 Cro. 60. Golds. 171.*

The Statutes extend to Lands and Tenements only, and not to Rents or other Profits issuing out of the Land, and therefore if
a Fine

a Fine be levied of a Rent or Common of Pasture, and he that hath Right doth not make his Claim, this is no Bar. 2 *Cro.* 61. So if I have Estovers out of the Land, or a Way over the Land, and the like. *Plowd.* 378. 5 *Co.* 124. *Bro. Fines* 123.

A Lessee for Years hath five Years from the Commencement of his Lease to claim. 2 *Cro.* 60.

If Lessee for Years, or Tenant by Statute or *Elegit* be ousted, and a Fine with Proclamations levied, and five Years past, they are all barred. *Plowd.* 374.

If one makes a Lease for Years to commence after the Expiration of another Term of Years then in *Esse*; the first Lease for Years ends; the second Lessee doth not enter, but suffers him in Reversion to enter, and he makes a Feoffment and levies a Fine with Proclamations, and five Years pass; in this Case this Interest by the second Lease is barred. 5 *Co.* 123. 2 *Cro.* 60. See 1 *Cro.* 77.

If Lessee for Years be ousted, and by it the Lessor disseised, the Disseisor levy a Fine with Proclamations, and five Years pass without Claim; in this Case the Lessor and Lessee are both barred. 2 *Cro.* 60. *Co.* 3. 77. *Fermor's* Case.

If a Lease be made for Years, and the Lessor or another before the Entry of the Lessee levy a Fine with Proclamations, and the Lessee doth not make his Claim within five Years; by this Lessee is barred of his Interest for ever. 5 *Co.* 124. 9. 106. *Goldsb.* 171.

The Right of a Term will be barred by a Fine if the Lessee were or might have ever been in Possession before the Fine levied. *Hil.* 43. *Eliz.* Coote and *Atkinson.*

Of Fines.

He that hath two Titles shall have two five Years to make his Claim. *Jenk. Cent. 6. Case 45.* Five Years are given after a Remainder doth fail, and five Years after the Forfeiture of Tenant for Life, and five Years for a Woman to claim her Dower after her Husband's Death. *Plowd. 374. Dyer 3. 19 H. 8. 7.*

An Infant hath five Years after he comes to his full Age, although he was in his Mother's Womb at the Time of the Fine levied. *Plowd. 539.*

Madmen, &c. have five Years after Cure of their Maladies, although the Infirmary happen after the Fine levied, and before the last Proclamation. *Plowd. 339, 367, 375, 377. Dyer 3.*

Estrangers out of the Realm at the Time of the Fine levied shall have five Years after their Return; so also if they were in *England* at the Time of the Fine levied, and within the five Years be sent into the King's Service, and by his Command. *Plowd. 366.*

If the Party be beyond Sea at the Time of the Fine levied, and never return, but die there, the Heir shall not be bound at all. *Sir Thomas Cotton's Case, 20 Eliz.*

If he be in *Ireland* or *Scotland*, he shall be said to be out of the Realm. *4 H. 7. Plowd. 367.*

They who have divers Defects have five Years after the last Infirmary removed; but if there be divers Impediments, and once wholly removed, and afterwards they fall into the like again and die; in this Case the five Years begun in the Ancestor's Time, shall proceed and be reckoned to the Heir, and he shall at the End be barred, as the Ancestor should if he

he had remained free all the five Years. *Plowd.* 375. *Dyer* 133.

If Tenant in Tail levy a Fine with Proclamations, this is a Bar to the Estate-Tail, but not to him in Reversion or Remainder, if he makes his Claim or pursue his Action within five Years after the Estate-Tail spent. *Co. Lit.* 372. 4 H. 7. c. 24.
33 H. 8. c. 36.

If Tenant in Tail be disseised, or have a Right of Action, and the Tenant of the Land levy a Fine with Proclamations, and five Years pass, the Right of the Estate-Tail is barred.

If he that hath Right be beyond Sea at the Time of the Fine levied, and never return, the Heir is not limited to Time: And so of an Infant, being Party to a Fine, having present Right, if he die in his Infancy his Heir is not limited: And so it is of a Person *non compos mentis* by the Act of God; or a Man in Prison by the Act of the Law; or a Feme Convert by her own Act if she die so, being no Parties to the Fine. 2 *Co. Inst.* 319, 320. *Plowd.* 366.

Copyholder and Lord barred.

IF one enter upon and put out a Copyholder in Fee of Land, and levy a Fine thereof, and the Copyholder suffer five Years to pass without Claim, &c. the Copyholder and the Lord are hereby both barred for ever.

And yet if a Copyhold Estate be granted to one for Life, the Remainder to another for Life, and the first Copyholder taketh a Bargain and Sale of the Freehold from the Lord, and then levieth a Fine with Proclamations, and five Years pass; by this the Copyhold Estate

Estate in Remainder is not barred. *Brownl.*
2 Part 153.

If *A* be Copyholder for Life, the Remainder for Life, the Lord bargain and sell, and levy a Fine to *B*. this descends to *C*. who levies a Fine, five Years pass without Claim of him in Remainder; this is no Bar. Adjudged 3 Co. 104. *Podger's Case*.

A Fine and Non-Claim will not bar Deceit, for a Fine may establish the Right of another, but cannot establish its own Defects. 1 Ld. *Raym.* 179.

Estrangers to Fines having future Right and no Impediments, have five Years after the coming of such Right. 1 R. 3. 7. 4 H. 7. 24. *Plowd.* 378. *a. b.*

So he in Remainder or Reversion depending upon an Estate of Freehold, after the Reversion or Remainder accrueth, hath five Years to enter; and if he die before Entry, his Heir hath only five Years to enter after the Death of the particular Tenants. *Plowd.* 374. *a. b.* But if these have Impediments they shall have five Years after the Impediments removed. *Plowd.* 364. *a.*

Estrangers having neither present nor future Right by reason of any Matter had afore the Fine, may enter and claim when they please within the Time of Prescription: For Example, If the Father die seised, his eldest Son being professed in Religion, and the younger Son entreth and is disseised, and a Fine with Proclamations levied, and after the eldest Son is deraigned, *i. e.* discharged of his Profession or Religion, he is bound to no Time, but may claim when he will. *Plowd.* 3. *Howel's Case*.

Note; If a single Woman, being an Estranger to the Fine, having present Right, take

an Husband who suffers five Years to incur, she is for ever barred. *Plowd.* 366. a.

They that have Right of a Reversion, or Remainder expectant upon an Estate-Tail, or for Life, have five Years after their Title comes to them to make their Claim. *2 Co. Inst.* 518.

Note ; If a Fine without Proclamations (*i. e.* a Fine at the Common Law) be now levied, he that hath Right may make his Claim or Entry at any Time to prevent the Bar. *Co. Lit.* 254, 262.

Concerning Corporations and Spiritual Persons.

CIVIL Bodies and Corporations having an absolute Estate so as to maintain a Writ of Right, as Mayor and Commonalty, Dean and Chapter, &c. are barred presently as Pri- vies, and within five Years as Strangers : As if one disseise such a Corporation of Land belonging to it, and after levy a Fine of it with Proclamations, and they claim not within the five Years, they are barred. *Plowd.* 537-538.

But in such Case every Successor or Successors, Head of the Corporation, shall have a new five Years to make their Claim. *Plowd.* 539.

So every Officer that hath Land appertaining to his Office, as Parker, Forester, Keeper of a Gaol, &c. will be barred by Non-Claim after a Fine levied by a Disseisor, and after five Years past after the Proclamations : But the Successors will not be bound if they don't suffer five Years to pass in their Time : So that these and Corporations are by their Laches

ches barred only for their own Time. *Plowd.* 537.

Deans, Bishops, Masters of Hospitals, Parsons, Vicars, Prebendaries, &c. which may not have a Writ of Right, are not barred by five Years, for they are restrained by divers Statutes to levy a Fine to conclude their Successors of such Land as they hold in Right of their Churches, Houses, &c. Nor will the Non-Claim of such prejudice their Successors. *Plowd.* 138, 375, 378, 538. *a.*

Note; The Claim to avoid the Bar of a Fine must be by Action or Entry. 3 *Cro.* 561.

Bar by Estoppel.

ESTOPPEL, *i. e.* a Conclusion; because a Man's own Act or Acceptance stoppeth or closeth up his Mouth to alledge or plead the Truth. *Co. Lit.* 352. Sometimes a Fine is a Bar by Way of Estoppel only.

That Estoppels do always descend upon the Heir general, and upon the Heir at Common Law, and none others; and the Daughter which comes in by a *Possessio Fratris*, shall escape an Estoppel of the Father. *Hob.* 31. *Co. Inst.* 1, 352.

- In every Estoppel Privy is required, for it ought to be reciprocal, *i. e.* to bind both Parties; and this is the Reason that regularly a Stranger shall neither take Advantage nor be bound by an Estoppel: But Privies in Blood, as the Heir, Privies in Estate, as the Feoffee, Lessee, &c. Privies in Law, as the Lord by Escheat, Tenant by the Curtesy, Tenant in Dower, the Incumbent of a Benefice, and others that come under by Act in Law, or in the

the *Post*, shall be bound and take Advantage of Estoppels. *Co. Inst.* 353.

Where a Feoffment will work an Estoppel, there a Fine will much more.

A Fine levied by a Remainder Man in Tail binds by Estoppel; but tho' such Fine be good by Estoppel before the Estate-Tail descends to the Issue, yet no Use can be declared thereupon. *2 Mod.* 90.

Where the Verity is apparent in the same Record, the adverse Party shall not be estopped to take Advantage of the Truth, for he cannot be estopped to alledge the Truth, when the Truth appeareth of Record. *Co. Lit.* 353.

Lands are devised to *A.* and *B.* and the Heirs of the Survivor, in Trust to sell, tho' the Inheritance be in Abeyance, yet the Trustees by a Fine may make a good Title by Estoppel. *Peere Williams, Vol. 3. p. 372.*

Bar by Discontinuance.

A Fine sometimes works a Discontinuance of Land and the Possession of it.

Discontinuance is where one that is present Owner of the Land doth grant some larger or greater Estate than he hath, (and thereby doth devest and interrupt the Inheritance which should or ought to have come to another) and then dieth, and another hath Right to have them, but he cannot enter by reason of such Alienation. And there is a Discontinuance in Fact, which is, where there is Transmutation of Possession; and in Law, as by Cognizance of Right by Fine; by which, notwithstanding that the Cognizor continues the Possession, yet the other is Tenant in Law, and the Right of the Estate or of the Tail is discontinued

tinued or dissolved. *Lit.* 134. *Seet.* 192. *Lit.* 140. *Co. Lit.* 325.

All Fines and Recoveries by Tenant in Tail to bar the Estate-Tail, are Discontinuances in which there is no Remedy, but in Case where the Reversion is in the King. 10 *Co.* 96. See *Moor* 870.

Note, That where a Feoffment will make a Discontinuance, there a Fine will much more.

Where an Estate is not discontinued, there regularly it is not barred by a Fine. 3 *Cro.* 827. *Moor* 170.

A Fine works sometimes by Extinguishment of Right.

FOR if a Fine be levied by the Issue in Tail, it extinguishes his Estate. 4 *Mod.* 4 & 5. *Symonds and Cudmore.*

Upon the Statute of the 32 *H.* 8. c. 36. it has been often held, That a Fine levied by a Remainder Man in Tail, during the Estate of a Tenant for Life, was an Extinguishment of the Entail. *Show.* 370.

Yet a Lease made by Tenant in Tail dying before the Commencement, shall be good against a Fine levied by such Issue or Remainder Man in Tail. *Symonds and Cudmore,* 1 *Salk.* 338.

Where Husband intitled to be Tenant by Curtesy levies a Fine with his Wife, his Right is extinguished.

But if the Fine be reversed in her Life-time, his Title to be Tenant by the Curtesy is not extinguished, for that gives him a new Title. See 5 *Mod.* 67.

How

How Fines may work by Disseisin.

FINES may operate by Disseisin where they can have no other Interpretation: For Example, If Tenant *pur auter vie* levy a Fine to a Stranger for his own Life, 'tis more than such a Tenant could do, because his Estate was only during the Life of another, and no longer. So a *Fine sur Conusance de Droit*, &c. implies a Fee, which being levied by any one who has but a particular Estate, will make a Disseisin. 2 Mod. 112.

Disseisin.

Disseisin is an unlawful Dispossessing of a Man of his Land, Tenement or other immoveable or incorporeal Right.

Disseisin is by Force or without Force.

How many Ways it is committed, see *Fleta*, lib. 4. c. 1.

Disseisor, &c.

IF Tenant in Tail be disseised, or make a Feoffment in Fee, and after levy a Fine with Proclamations to the Disseisor or to a Stranger; this bars the Issue in Tail for ever. 3 Co. 90.

If a Man hath Fee-Simple and be disseised, and the Disseisor doth levy a Fine with Proclamations, and he does not claim within five Years; by this he and his Heir are barred for ever. 6 Co. 105. 3. 85. Co. Lit. 198. But the Heirs of such as have Impediments shall not be barred by Fine levied by Disseisor. *Jenk.*

Cent.

Cent. 4. Case 97. See 21 Jac. c. 16. Plowd. 366. Poph. 65.

If an Infant Disfeisor make a Feoffment, and the Feoffee levy a Fine, with Proclamations, and the five Years pass, the Disfeisee is barred for ever; but the Infant shall have five Years after his full Age to avoid the Fine; and if he enter, yet the Bar against the Disfeisee doth continue. *Moor Rep. 251, 399.*

It is said in 2 Co. 55, 79. that if a Disfeisee levy a Fine to a Stranger, the Disfeisor shall hold the Land in this Case for ever. But the contrary is said in *Marsh Rep. 105. pl. 180.* that it shall enure merely by way of Estoppel, and therefore not bind a Stranger.

If a Disfeisor be disfeised, and a second Disfeisor levy a Fine, in this Case, if the first Disfeisor enter within the Year, this by the Common Law had preserved the Right of the Disfeisee; so that in this Case the Right of one that might have claimed and did not, was preserved. *2 Co. Inst. 518.*

A Fine also works by way of Remitter.

A Remitter is an Operation in Law, upon the Meeting of an ancient Right remediable, and a latter State in one Person where there is no Folly in him, whereby the ancient Right is restored and set up again, and the new defeasible Estate ceased and vanished away. *Co. Lit. 348.*

A Remitter is wrought by Operation of Law upon the Freehold in Law descended without any Entry, and the Law so favoureth them, that if the Discontinuee be an Infant or Feme Covert, and Tenant in Tail after a Discontinuance disfeise them, and die seised, the Issue

Issue shall be remitted without any Respect of the Privilege of Infancy or Coverture. In this and many other Cases you may observe the Law, that abhorreth Suits of Vexation, doth avoid Circuitry of Action, for *Circuitus est evitandus*. *Ibid.*

Note; Neither an Action without a Right, nor a Right without an Action, can make a Remittance. *Ibid.* 349.

If Tenant in Tail levy a Fine with Proclamations, and after the same is reversed by Writ of Deceit; in this Case the Issue in Tail is remitted, and shall avoid all the Estates made, because the Fine is void between the Parties. 3 Cro. 1471. *Cary and Dancy*.

See *Moor Rep. Case 106. Plow. 367. Moor, Case 257. Bendl. 30. Hetl. 110.*

Baron and Feme.

THE Feme before Marriage conveys her Estate (without her now Husband's Privy) to Trustees, in Trust to pay the Rents, &c. to her sole and separate Use for her Life, and afterwards in Trust for such Uses as she, whether Sole or Covert, should by Will appoint, and for want of such Appointment to her own right Heirs for ever. She afterwards marries Defendant, who mortgages Part of the Lands to Plaintiff for 1000*l.* for a Term of 500 Years, and the Husband and Wife levy a Fine, and declare the Uses thereof as to mortgaged Premises to be to Plaintiff, for securing Principal and Interest. The Wife by Order of the Court answered separately, and insisted she had been forced to join in the Fine by Duress and Fraud. Yet *per Cur.* these Suggestions do not appear upon the Proofs, and
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the Court said, that the Operations of Fines and Recoveries are the same upon Trust Estates as upon legal Estates, and that an Estate for Life limited to the Wife, and the Remainder limited to her own right Heirs, in Default of any Appointment made by her last Will, are both disposed of by the Fine, and if no such Remainder had been limited by it; yet as the Estate was the Wife's own, and moved originally from her, whatever was not conveyed would have remained in her, and consequently been barred; and so decreed Trustees to convey Mortgaged Premises to Plaintiff, but without Prejudice to any future Bill that may be brought for Discovery of the Fraud or Force. *Cases Temp. Talbot* 41.

Where the Husband for a valuable Consideration covenants that his Wife shall join with him in a Fine, the Court of Equity will enforce a Performance of such Covenant, because it is to be presumed, that the Husband has first gained his Wife's Consent for that Purpose; so said by the Master of the Rolls in the Case of *Winter* versus *D'evreux*, *Trin.* 1723. and that the Interest of such Covenant has been taken to be an Inheritance descending to the Heir of the Covenantee; but, after all, if it can be made appear to have been impossible for the Husband to procure the Concurrence of his Wife, (as suppose there are Differences between them) surely the Court will not decree an Impossibility, especially where the Husband offers to return all the Money with Interest and Costs to answer all the Damages. *Peere Williams, V. 3. p. 189.*

If a Man seised in Fee devise to his Wife in Tail general, Remainder to Issue in Fee, and the Wife with a subsequent Husband levy a Fine,

Fine, the Issue is barred notwithstanding the Statute 11 H. 7. c. 20. for the Design of that Statute was to prevent a Wife advanced by her Husband from prejudicing his Issue; and though it may be within the Words of this Statute, yet it is not within the Intent of it. *Comyns* 370.

A Motion to set aside a Fine upon the Wife's Affidavit, and upon her Examination in open Court, and of the Witnesses to the Deeds, who all declared they never saw the Wife execute the Deeds, and upon Examination of one of the Commissioners upon Oath in open Court, who confessed that the Wife did not acknowledge the Fine, but alledged his Ignorance of the Law, and the other Commissioner absconding; and likewise upon Examination of the Plaintiff, and several other Persons, and upon reading many Affidavits, the Court granted an Attachment against *Pyott* the Husband, and *Wood* one of the Commissioners, being satisfied the Wife never acknowledged the Fine; and after much Debate they ordered the Matter to be tried upon a feigned Issue, upon which a Verdict being found that the Wife did not acknowledge the Fine, it was afterwards by Rule of Court vacated as to the Wife only. *Trin. 3 G. 1. Heatbey versus Pyott & Ux.*

A Feme Covert ought not to be admitted without her Husband to levy a Fine: But if without her Husband she be admitted to levy a Fine of her own Land whereof she hath a Fee-Simple, the Husband may avoid it by Entry, &c. during her Life, (or if he be Tenant by Curtesy, he may do it after her Death) but if he do it not it is a good Fine, and will bind her and her Heirs for ever.

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Except she was an Infant when the Fine was levied, and her Husband dies during her Minority; for in this Case (if it be not a *Fine sur Grant and Render* to her in Tail, or for Life) she may avoid it during her Minority: And yet if in this Case the Coverture do continue till her full Age, she may not avoid it unless her Husband join with her.

But if the Baron and Feme join together, either to dispose of her own Land, or to bar her of any Jointure or Dower upon her Husband's Land, may and ought to be received to levy any Fine, as any other Man or Woman may do. 12 Co. 122. 7. 8. 27 Aff. 51. Co. Inst. 3 part, 515. Hughes's Rep. 940.

If a Fine be levied to Husband and Wife in special Tail, the Remainder to the Heirs of the Body of the Husband, and the Wife dieth without Issue, the Remainder is executed in Possession in the Husband; for the Estate-Tail meeting with the Fee-Simple is drowned.

If the Baron without the Feme levy a Fine of the Feme's Lands, she and her Heirs may avoid it after his Death; but if she do not make her Claim within five Years after her Husband's Death, then she is barred of her Right for ever, notwithstanding the Statute 32 H. 8. and so are her Heirs barred for ever. See Dyer 72. Plowd. 373. And the Fine of the Husband and Wife together of her Land is good, and will bind her and her Heirs. 37 H. 8. c. 28.

If the Husband levy a Fine of his own Land and die, and his Widow (having no Impediment) doth not make her Claim within five Years after his Death, hereby she is barred of her Dower for ever. 2 Co. 93. Dyer 224. Goldsb. 148. Co. Inst. 3. 216. Leon. 3. 221.

If

If a Jointure be made to a Woman after the Coverture, and her Husband and she levy a Fine of it, by this she is without Question barred of her Jointure in the Land; but it is thought this will be no Bar to her of her Dower in the Residue of the Land of the Husband, and especially where that the Fine is *sur Cognizance de Droit come ceo, &c.* Dyer 358. For that the Election to have Jointure or Dower is not given to her 'till her Husband's Death. *Leon.* 285.

Baron and Feme Tenants in special Tail, the Baron alone levies a Fine and dies, the Feme may enter, but the Issue is barred. *Moore's Rep.* 28. *Case* 90.

If Husband and Wife be Tenants in special Tail, and they levy a Fine at the Common Law (*i. e.* a Fine without Proclamations) and the Husband and Wife take back again an Estate to them and their Heirs; in this Case the Estate-Tail is not barred; and yet against a Fine levied by herself, she cannot be remitted; but in that Case if the Land descend to her Issue, he shall be remitted. *Co. Lit.* 353.

If a Woman during her first Husband's Life marry a second, and with him and by his Name acknowledge a Fine, it will not bind her, because she is misnamed. *7 H. 4.* 22, 23.

If she levy a Fine with her right Husband by a wrong Christian Name, she is bound by Estoppel during her Life, and the Tenant may plead, that she by such a Name levied the Fine. *1 Aff. pl.* 11. *Brook, Fines* 117.

An Husband makes a Feoffment of the Wife's Land upon a Condition which is broken, the Feoffee levies a Fine, the Husband died in the fourth Year after the Proclamations, having Issue by his Wife, and after the

Wife dies, and five Years pass, the Heir is barred to enter as Heir to his Father upon the Condition, but he has five Years after the Death of his Mother, as Heir to his Mother for her Right. *Quando duo jura in una persona concurrunt sequum est ac si essent in diversis.* Plowd. 397.

A Fine destroys not the Jointure of the Wife, though Husband and Wife join in levying a Fine of the Wife's Jointure, with Design to raise a building Term on Agreement that the Wife shall have her Jointure out of the reserved Rent, because the Fine enures only to the building Term. *Skinner* 238.

A Woman that hath an Estate of the Land that was her Husband's or any of his Ancestors, assured to her for Jointure, Dower or Intail by her Husband or any of his Ancestors, may not levy a Fine of this Land to grant a greater Estate thereby than for her own Life; if she do, this will make a present Forfeiture by 11 H. 7. c. 10. and if such a Woman accept of a *Fine sur Cognizance de Droit come ceo, &c.* and by the same Fine render back the Land to the Cognisor for 100 Years; this is within this Statute a Forfeiture.

So if a Woman that hath Title of Dower, will, before she be endowed, enter and levy a Fine, this will be within the Statute, and a Forfeiture of her Estate by 12 H. 7. 2 Cro. 689. *Leon.* 206.

But a Lease for 21 Years by a Woman Tenant in Tail, by her Husband's Gifts, &c. albeit it be not warranted by 32 H. 8. yet it seems this is no Forfeiture within 11 H. 7. 2 Cro. 689.

Baron, in Right of his Wife, seised in Fee of a Share of the New River Water, the Wife cannot be

be barred but by a Fine, and where they both without a Fine mortgage such Share, and the Wife after her Husband's Death pays Interest due on the Mortgage, this will not affirm the Mortgage; and wherever a Fine and Recovery are necessary for cutting off the Entail and Remainder of such Shares, in Regard the New River runs through three Counties, *i. e.* Hertford, Middlesex and London, there must be three several Fines and Recoveries passed as to any of these Shares, *viz.* a Fine and Recovery in each County. *Peere Williams, V. 2. p. 127.*

On a Marriage Settlement, Lands were conveyed to Trustees and their Heirs, to the Use of the Husband for Life, Remainder to the Use of the Wife for Life, Remainder to the first, &c. Son of the Marriage. These Limitations to the Husband for Life, &c. are Trusts only, and not Uses; and when the Husband and Wife levied a Fine to a Mortgagee to raise Money, though the Fine would have been a Forfeiture of the Wife's Estate for her Life, had she had the legal Estate, against which Equity would not relieve, yet decreed that a Trust Estate was not forfeited by a Fine. *Ibid. 146.*

Where an Husband intitled to be Tenant by the Curtesy, levies a Fine with his Wife, his Right is thereby extinguished, and where not, *5 Mod. 671* see Title *Extinguishment of Right*.

If a Feme Covert only levy a Fine Executory, and a *Scire facias* is brought against her and her Husband, if she be received upon the Default of her Husband, she shall bar the Co-nusee, which if she had been Sole she could not. *Co. Lit. 353. a.*

Tenant for Life in Tail, &c.

IF there is a Tenant for Life, Remainder over to some other Person, so as to be in Contingency, if the Tenant for Life makes a Feoffment or levies a Fine without Trustees to preserve contingent Remainders, the Remainders in Point of Law are barred; but it is a most barbarous Thing to rob Persons unborn of the Inheritance, and to give it to one who has no Colour of Title; said by Lord Chancellor Talbot, in the Case of *Savage* versus *Taylor*, *Cases in Equity* 239. and see in the same Case and Page, where Trustees to preserve contingent Remainders are guilty of Breach or Neglect of their Trust, by not bringing Actions and making Entries, &c.

Remainder in Tail limited to the Issue, not barrable by the Father's Fine. 1 *Ld. Raym.* 33.

A Man destroys a contingent Remainder by Levying a Fine, afterwards the Fine is annulled by Act of Parliament; and held that the contingent Remainder was revived; but if it had been reversed for Error, it had been otherwise. 1 *Ld. Raym.* 314.

That a Lease made by Tenant in Tail, dying before the Commencement, shall be good against a Fine levied by such Issue or Remainder Man in Tail; see the Case of *Symonds* and *Cudmore*, 1 *Salk.* 338.

In *Skinner's Rep.* 284. a Father Tenant for Life, with Power to make Leases for 21 Years, three Lives, or 99 Years determinable on three Lives, Remainder to his Son in Tail, Remainder to the Father and his Heirs, the Father grants Leases for 21 Years and dies; the Son being Tenant in Tail grants Leases

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to 7. S. for 21 Years, to commence after the Expiration of the first Term, and dies during the first Term leaving Issue, the Issue levies a Fine, and declares the Use to himself in Fee, the Term ends, the second Lessee enters, and the Lessee brings an Ejectment; it was agreed, that the second Lessee was not warranted by the 32 H. 8. or any Power within the first Settlement; and adjudged that the Issue in Tail might vacate the future Leases, and enter on the Tenement when it commences in Possession; for by the Fine the Estate was discharged of the Estate-Tail, and the Conusee had a Fee in him. *Skinner* 284.

If Tenant in Tail, Expectant upon a Lease for Years of Lands, levy a Fine, this is a Discontinuance of the Fee; and notwithstanding the Lease the Fine has such an Operation upon the Freehold, that it displaces the Reversion in Fee. *Co. Lit.* 332. 2 *Mod.* 117.

Where one is in Possession by Virtue of a particular Estate for Life, &c. and accepts a greater Estate, it shall not divest the Estate of those in Remainder for Life, so as the same may be barred by Fine or Non-claim. See the Case of *Smith Pierce*, Pasch. 4 Jac. 2. B. R. which was adjourned.

But in the Argument of the same Case this further Case seems to be proved, viz. Where a Lease is for 100 Years in Trust to attend the Inheritance, and *Cestui que Trust* being in Possession demises to another for 50 Years, and levies a Fine, and five Years pass; the Term of 100 Years is divested by such Fine and Non-claim, and is turned to a Right, and so barred. See 3 *Mod.* 195, 196.

If a Tenant for Life levy a *Fine sur Cognissance de Droit come ceo*, &c. to a Stranger, or

levy a *Fine sur Grant and Render* to a Stranger, to hold to the Conusee for longer Time than for his Life; in this Case, albeit the Fine be a good Fine, yet this is a Forfeiture of the Estate of the Tenant for Life, whereof he in Reversion or Remainder may take present Advantage and enter. But if a Tenant for Life levy a *Fine sur Grant and Release*, to hold to the Conusee for the Life of Tenant for Life, or grant his Estate by such a Fine to him in Reversion or Remainder, or by Fine grant a Rent out of the Land for longer Term than for his own Life; this Fine is good, and there will be no Forfeiture of the Estate of Tenant for Life by it. So if such a Fine be levied by Tenant for Life to a Stranger, who doth thereby acknowledge all his Right to be in the Tenant for Life, and release and quit-claim to him and his Heirs, and so no further; this is a good Fine, and no Forfeiture of the Estate of the Tenant for Life, for his Estate is not changed thereby, and it may enure to him in Reversion; but if the Stranger say further in the Fine *Come ceo que il ad de son Dane*, this is a Forfeiture. 27 E. 1. 1. 44 E. 3. 36. 1 H. 7. 5. The same Law is of such Fines for Tenant in Tail after Possibility, &c. and Tenant by the Curtesy, 39 E. 3. 16. and yet such a Fine of a Rent out of the Land is no Forfeiture. If Tenant for Life, the Remainder in Fee, accept a *Fine come ceo*, &c. albeit this is a Forfeiture, yet it is no Bar to the Remainder. 9 Co. 104. See the Form of a *Fine with Grant and Release* to one for Life, in this Treatise,

Note; A Tenant for Life in Tail, after Possibility, &c. or in Dower, may not by Fine grant and surrender his Estate to him in Reversion,

sion, but he may grant and release it by Fine.
17 E. 3. 62. 24 E. 3. 26.

If neither the Cognizor nor Cognizee be seised of any Estate in Freehold, in Possession or Reversion of the Land whereof the Fine is levied, at the Time of Levying thereof, but have only a Lease for Years, or not so much; in this Case the Fine will be of no Force as to any Stranger, however it may be good between the Parties themselves to conclude them by way of Estoppel; and therefore if the Lessee for Years levies a *Fine sur Cognizance de Droit come ceo*, this will not be a good Fine, because he hath no Frank-tenement in him.
Jenk. Cent. 6. Case 45.

The late Earl of *Arlington* devised int^r al^r a Leasehold Estate held for three Lives, of the Cathedral Church of *St. Paul, London*, to the Duchess of *Grafton*, his only Issue, for Life, Remainder to the Duke of *Grafton* for Life, Remainder to the first, &c. Son of the Duke by the Duchess in Tail, Remainder to the right Heirs of the Duchess; in 1686 said Lease was renewed agreeable to said Limitations. The Duke of *Grafton* died, and his Son, the present Duke, brought his Bill, praying that the Leasehold Premises (some of the Lives being dead) might be renewed, and settled on the Duchess for Life, Remainder to Plaintiff, the Duke and his Heirs, for otherwise it would tend to a Perpetuity. The Lord *Euston* (the Duke's eldest Son) was then an Infant, and the Cause being heard 2 August 1722, the Court conceived they could not do it till a *Fine sur Concesserunt* had been levied by the Plaintiff and Defendants, Sir *Thomas Hammer* (the Duchess's Husband) and the Duchess, the Matter was referred to a Master, and coming

ing on 21 December 1722, on the Report, by which it appeared a Fine had been levied, and a Lease and Release settled, being an Assignment of said Lease of 1686 to new Trustees, the Court ordered the said Lease and Release to be executed, and that the new Lease should be in Trust for the Duchess for Life, Remainder to Plaintiff the Duke and his Heirs, during the Lives in the Lease. Duke of Grafton ver. Hammer. And indeed it seems reasonable, that the first Tenant in Tail (improperly so called) should be allowed to bar the Limitations over, for though the original Estate be only for three Lives, yet it being the Interest of both Landlord and Tenant, that the Leases should be renewed, and it being the Doctrine of the Court of Chancery, that all such new Leases are subject to the old Trusts, the Estate might by this Means continue for ever, without any Possibility of being barred. Peere Williams, Vol. 3. p. 266. See also Baker ver. Bailly, 2 Vern. 225.

If a Lessee for Years, or a Disfeisee, or one that hath a Right only to a Reversion or Remainder, levy a Fine to a Stranger that has nothing in the Land, this Fine will be void, or at least voidable as to any Stranger to the Fine; and he that hath a Right to except against it, may shew that the Freehold Estate and Seisin of the Land was in another before, and at the Time of the Fine levied, and that *partes Finis nihil habuerunt tempore levationis Finis*, and by this avoid the Fine; and yet a Disfeisor may levy a Fine to a Stranger that hath nothing in the Land, and this will be a good Fine, for he hath the Fee-Simple by Wrong in him, and if the Disfeisee suffer five Years to pass without Claim, the Disfeisee is barred. Plowd. 353.
6 Co.

6 Co. 105. 3 Co. 87. And in *Peere Williams*, Vol. 1. p. 520. it is held, that though a Fine levied by Lessee for Years or at Will be void, yet it is otherwise where levied by one having a defeasible Right, and such Lessee joins in the Fine.

If Tenant for Life make a Feoffment in Fee, and the Feoffee levies a Fine with Proclamations, and he in Reversion or Remainder do not make his Claim, &c. within five Years at least after the Death of Tenant for Life, he is barred for ever. *Plowd. in Stowel's Case.*

If a Tenant in Tail levy a Fine of the Land intailed with Proclamations, albeit this is no Bar to him in Reversion or Remainder claiming in Time; yet it bars the Estate-Tail, and all others that have Right (except those who have Impediments, &c.) not claiming within five Years. *Co. Lit. 372.*

If Tenant in Tail be disseised, and the Disfeisor levy a Fine with Proclamations, and Tenant in Tail suffer five Years to pass without Claim, his Issue are barred for ever. 9 Co. 105.

A Papist Tenant in Tail suffered a common Recovery, and declared the Uses to himself and his Heirs; and held not a Purchase within the Statute 11 & 12 W. 3. for 'tis no new Acquisition, but a Modification of the Family Estate. *Mod. Cases in Law and Equity, 2 pt. p. 172.*

If the King be Tenant in Tail of the Gift of some of his Ancestors as Subjects, he may by Fine bar his Issues; and upon a Grant and Render he may bar the Estate-Tail. 3 Co. 7. b. 7 Co. 32. 3 Leon. 76, 77. *Co. Lit. 372.*

And if Tenant in Tail of the King's Gift levy a Fine or suffer Common Recovery, albeit

beit this is no Discontinuance where the Reversion is in the King, yet it seems to be a Bar to the Issue. 3 *Leon.* 76, 77.

But yet it is said to be no Bar to the King, nor to the Issues in Tail, but all others it will Bar; for these Fines are not intended within, but excepted out of, 32 *H.* 8. c. 6. See *Dyer* 279. *Lit. Bro. Case* 144. See *Moor* 115. *Case* 258.

Note; Fines will not bar in Cases of Land restrained from Alienation by Act of Parliament.

And it is a Rule, That in Case where a Recovery will not bar the Issue in Tail, there a Fine will not bar them. 1 *Brownl.* 138.

If there be Tenant in Tail of the Crown, the Reversion in the Crown, and the Tenant in Tail is disseised, the Disseisor doth levy a Fine with Proclamations, and five Years pass; by this the Tenant in Tail himself is barred, but not the Issue, by 32 *H.* 8. & 34 *H.* 8. *Moor* 467. *Case* 665. See *Cro.* 595.

If one levy a Fine of Lands in Ancient Demesne and of other Lands together; this Fine as to the Ancient Demesne Lands is no Bar, but as to the other it may. 7 *H.* 4. 44. *F. N. B.* 98. 1 *Cro.* 469.

Note, That no Fine levied by Tenant in Tail will bar his Issue, but where the Tenant in Tail is Conusor. *Dyer* 269.

And that such Tenant may not alien or charge the Land intailed without Fine or Recovery. *Wing. Max.* 413.

But if Lands be conveyed to a Woman in Tail for her Jointure, within the Statute 11 *H.* 7. 20. and she levy a Fine of them; this will not bar the Issue in Tail. 1 *Co. Inst.* 356, 365. *Wing. Max.* 19, 20.

Rules.

Rules.

WHERE the Issue in Tail claims by the same Title, and must make his Conveyance to the Lands by him that levied the Fine, there the Fine will bar him, although the Fine be with Grant and Render; yet if the Grant and Render be of the Land itself, and not of any Profit issuing out of it, it is a Bar. *Co. Lit.* 153.

If a Gift be made to the eldest Son, and to the Heirs of his Body, the Remainder to the Father, and to the Heirs of his Body, the Father dieth, the eldest Son levies a Fine with Proclamations and dies without Issue; this barreth the second Son, for the Remainder descended to the eldest. *Co. Lit.* 372.

If Tenant in Tail of the Gift of the King, Reversion to the King Expectant, is disseised, and Disseisor levy a Fine and five Years pass, this bars the Estate-Tail.

Note; If there be Repugnancy in a Fine, the first Part shall stand, and the last shall be left out. *Jenk. Cent.* 2. *Case* 96. *Cent.* 6. *Case* 50.

If a Fine be levied *sur Grant and Render* to one for Life or in Tail, the Remainder in Fee, if Tenant for Life, or in Tail, execute the Estate for Life, or in Tail, this is an Execution of the Remainder. *Co. Lit.* 354.

Now we come to treat touching the Avoiding or Reversal of Fines by Writ of Error, &c.

A Fine may be reversed as to Part of the Land, and remain good as to the Residue, but it cannot be reversed *in toto* as to one

one Man, and remain good *in toto* as to another. 1 *Ld. Raym.* 179.

Error brought in *B. R.* to reverse a Fine levied in the Grand Sessions in *Wales*, by the Heir of the Wife of the Conusor, the Land being the Wife's, and assigned for Error, that she died before the Return of the Writ of Covenant; and upon a *Scire facias* against Terre-tenant, &c. the Defendant who was Conussee was returned Terre-tenant, and warned; the Fine was reserved. *Clements versus Langbarne*, 2 *Ld. Raym.* 872.

Note; A Writ of Deceit may be brought to avoid a Fine after the Death of all the Parties. 1 *Ld. Raym.* 178.

See the Case of *Zouch ver. Thompson*, 1 *Ld. Raym.* 177. where Deceit to annul a Fine of Lands in Ancient Demesne.

No Error but such as is notorious, shall avoid a Fine; for *Consensus tollit Errorem*.

An Infant may avoid a Fine by a Writ of Error during his Minority, but not afterwards. 8 *Co.* 230. *Dyer* 201. and see *Moor* 74, 189. where an Infant acknowledged a Fine, and Conusees omitted to have the same engrossed till he came of Age, in order to prevent his bringing a Writ of Error; yet the Court upon View of the Conusance produced by the Infant, his Prayer to be inspected, and his Age examined, recorded his Nonage to give him the Benefit of his Writ of Error.

If the Husband levy a Fine of his Wife's Land, and the Conussee Grant and Render the Land to the Husband and Wife, although the Wife be not Party to the Original nor to the Conusance, and therefore she ought not by Law to take any present Estate, but by Way of Remainder only; yet the Grant and Render

de facto to the Wife *in presenti*, is not void, but voidable by a Writ of Error. *Co. Lit.*

353. a.

If the Wife be within Age, and she and her Husband levy a Fine of her Land, they may by Writ of Error reverse it, and it shall be reversed as to both of them. *Leon.* 115, 317.

A Fine after five Years past, is no Bar to a Writ of Error to reverse it. *Skinner* 18. Nor to a Writ of Deceit. *Ibid.* 260, 262.

If there wants an Original, or a *Dedimus Potestatem* be to two, and one alone executes it, this is said to be Error, for which the Fine (being voidable but not void) may be reversed. *Latch's Rep.* 186. But if an Original be brought and a *Retraxit* entred, and after that a Concord is made or a Fine levied, this is void in respect the Variety appeareth of Record. *Co. Lit.* 352.

No Error may be alledged to reverse a Fine, where the Error is contrary to the Record or Certificate of the Justices; as to say, the Commissioner was not a Knight, when the *Dedimus Potestatem* saith he was. See *Jenk. Cent.* 6. C. 53. *Dyer* 89. 2 *Cro.* 11. *Yelv.* 33, 34. *Hughes* 940. *Case* 9. 646, 16, 17, 18. *Note*; A Fine may not be vacated but by Writ of Error only. *Cases Temp. Talbot, Case* 44. *Lucas* 43.

If Lands lie in divers Counties, and there be not a Writ of Covenant for every County, this will be Error. *Dyer* 225. 15 *Ed.* 4. 13.

Where Error is in the Proclamations only, there they only shall be reversed, and the rest of the Fine shall stand good at Common Law. *Hughes* 938. C. 2, 3, 4.

If a Fine be levied to any Person not named in the Writ of Covenant; as if *A.* be Plaintiff in the Writ of Covenant against *C.* and *C.* levieth

vieth a Fine to *A.* and *B.* this is not a good Fine, but voidable by a Writ of Error. 2 *Co. Inst.* 513, 514.

In the Case of *Winchurst* and *Mafely*, *Mich. 7 W. 3.* on Motion to quash the Party's own Writ of Error brought to reverse a Fine, for that one of the Parties to the Fine, was omitted in the Writ of Error; the Court refus'd it, saying, They could take Notice of nothing but what was on the Record, and not of a foreign Suggestion; and cited a Case where a Fine being levied by three, two of them brought Error and revers'd it; for perhaps the other has nothing in the Land.

5 Mod. 67.

A Writ of Error *de Recordo quod coram vobis, &c.* lies in *B. R.* on Affirmance thereof a Fine levied in *C. B.* This was resolved in the Case of *Winchurch* and *Belwood*, *Pasch. 4 W. & M. B. R. vide 1 Salk. 337, 338.*

And yet the Writ of Error in *B. R.* to reverse a Fine in *C. B.* removes the Transcript only, and not the Record itself. See the same Case, 1 *Salk. 337, 338.* and the Case of *Fazakerly* and *Baldo*, *Ibid. 341.*

But if the Court of *B. R.* adjudge the Fine erroneous, then a *Certiorari* goes to the Chirographer to certify the very Fine, and when it comes up, it is actually cancelled. *Per Holt* Chief Justice in the said Case of *Fazakerly*, &c. 1 *Salk. 341.*

And on Error to reverse a Fine a *Scire facias* must go against the Tertenants; for the Conusees are (often) but nominal Persons. *Per Cur. Hill. 6 W. 3. in B. R. 1 Salk. 339. and 2 Salk. 598.* The same Rule is affirmed, and said to be for fear of Purchasors, and in Favour of them: And though in Strictness of Law a *Scire facias* being returned against the Conusees

is

is sufficient, yet the Course of the Court is to have it also against the Tertenants. 1 *Salk.* 339. 2 *Ld. Raym.* 178.

But in some Cases a Fine may be revers'd or vacated without Writ of Error; as was done in *Hutchinson's Case*, *Mich. 33 Car. 2.* in *C. B.* Where *H.* and his Wife (she being an Infant of 16 Years) levied a Fine of her Lands, and paid the King's Silver, and got the Fine perfected and exemplified; but on the Complaint of him in the Remainder in Fee depending on the Estate-Tail of the Wife, the Husband and Wife were brought into Court by Rule and examined, and thereupon the levying of the Fine and the Infancy appeared, and the Infant's Father and Mother came also into Court, and prayed that the Fine might stand; and tho' *Maynard* for them insisted, that it ought not to be vacated, the King's Silver being paid, yet on View of the Roll in *Pierpoint's Case*, *Hill. 4 Jac. 1. Rot. 70.* and other Precedents cited, the Court vacated this Fine, and caus'd the Exemplification thereof to be brought into Court and delivered up, and order'd him in Reversion to prosecute an Information against the Commissioners who took the Conusance of the Fine. But *note*, the *Vacat* was entred *quoad* the Feme *tantum*. And in *Trin. 34 Car. 2.* another Fine levied by Sir *Robert Massam* and his Wife an Infant, was vacated for the same Cause. *Vide 3 Lev. 36.*

N

Concerning

Concerning the Avoiding of a Fine by Reason of Fraud, Deceit and Covin, and of Pleas to a Fine, &c.

COVINA, is a secret Assent determined in the Hearts of two or more, to the Defrauding and Prejudice of another.

Covin and Consent in many Cases to do a Wrong do choak a meer Right, and the ill Manner doth make a good Matter unlawful. *Co. Lit.* 357.

A Fine or Recovery which is a Record, must be pleaded intire. *Hob.* 24.

If one plead a Record, he must shew it at the Day appointed. *3 Rep.*

If a Fine be gotten or obtained by any notorious Fraud or Practice; it may in some Cases be avoided by a *Vacat.* See *1 Cro.* last pub. 518. 531, 471. *Moor C.* 21. *Plowd.* 370.

If a Lessee for Life or Years, or a Copyholder, levy a Fine of Covin of purpose to bar him in Reversion, or the Lord of his Inheritance; this may be avoided for Fraud. *9 Co.* 105. *3 Co.* 78.

And as a fraudulent Deed or Conveyance may be avoided for Fraud; so a Fine may be avoided.

So is the Law of a Fine suffer'd in pursuit of an usurious Contract. *3 Co.* 18, 80. *16 H.* 7. 5. *Jenk. Cent.* 6. c. 45. *Stat.* 13 *El.* & 27 *Eliz.* *3 Co.* 45. *Style* 288.

A Fine levied to deceive a Purchaser or Creditor may be void, or be voidable. See *3 Co.* 79.

But if one shall pretend Title to Land, and enter and disseise the Tenant, and after levy
I a Fine

a Fine with Intent to bar the Disseisee; this is good. And if the Disseisee do not enter or claim within the five Years, he is barred. 3 Co. 79.

If there be Tenant for Life, the Remainder for Life, the Remainder in Fee; and the first Tenant for Life alien, and the Alienee levy a Fine with Proclamations, and the second Tenant for Life claim, &c. This doth make void the Fine, not only against him, but against him in Remainder also.

And it is a Rule, That any one that hath an Estate in Possession or Reversion, which will be barred by the Fine when 'tis levied, may make a Claim or Entry to prevent the Bar of the Fine.

And by Authority also any other Man may make a Claim, Entry, &c. in this Case, for him that hath Right. See *Moor* 457.

The Avoiding of a Fine by one defeats it against all, altho' their Right were bound before by their Non-claim, which sets at large all other Rights above them. 16 Ed. 2. *Plowd.* 358. *Stowel's Case.*

Fine levied by one of the same Name of the other's Lands, may be avoided by Deceit or Pleading. 34 H. 6. 19. *Lit. Bro. c.* 215.

The Plea of *per Duress*, or Imprisonment, will not, it is said, be admitted. 17 E. 3. 52. 17 *Ass.* 17.

The Plea, *Partes Finis nihil habuerunt tempore levationis Finis*, is given only to Estrangers to the Fine; but from Parties and Privies it is taken away. Where this Plea is good or not, see *Hughes* 940. and *Moor* 251. The Issue in Tail may not have this Plea, unless to avoid a Fine *sur Release* only. 3 Co. 141. *Dyer* 334.

Issue in Tail may aver Continuance of Possession against a *Fine sur Cognissance de droit tantum*, or Surrender. See 12 Ed. 4. 12, 15. 11 H. 4. 85. But not against *sur Cognissance de droit come ceo*, &c.

For Pleas to avoid a Fine. See Owen's Rep. 21. & Stat. 27 Ed. 1. c. 1.

How a Fine is to be pleaded. See Leon. 386, 986. Nelson's Abr. 89. Vol. 2. West Symb. 2d Part. 3 Cro. 903, 917.

If a Fine or Recovery be levied or suffer'd of Covin by a Lessee for Years, or Lessee for Life, or a Copyholder, of Purpose and with Intent to bar him in Reversion, or a Lord of his Inheritance; this is of no Force, and therefore Non-claim within five Years shall not hurt in this Case. 3 Co. 78. 8. 105.

Note; *Certioraries* remove the Record of a Fine into Chancery, and from thence by *Mittimus* into the King's Bench or Common Pleas, if it came from thence, and thereon to proceed to Execution.

In a Writ of Error to reverse a Fine, the Record itself is not removed, but the Transcript thereof, because a Record which comes into the upper Bench shall not be remanded back; and if the Judgment be affirmed, there is no Chirographer to engross the Fine.

A Fine may be avoided in * Equity where a Claim is to be made of an Equity, within five Years after levying the Fine; the Claim must be by *Subpœna*, and not by Entry. Chan. Rep. 279.

Where the Writ of Error varies from the original Record, or hath any other Defect, the

* A Court of Equity will set aside a Fine levied to other Uses than what were intended by Matriage Articles. Lucas 436, 437.

fame

same may be amended by the Court and made agreeable to the Record. *Geo. 1. c. 13.*

The Avoiding of a Fine by one, defeats it against all, though they were bound before by their Non-claim, which sets at large all other Rights above them. *Plowd. 358.*

No Man can have a Writ of Error to reverse a Fine that took an Estate by it. *2 Vent. 30. 1 Mod. 246.*

Error to reverse a Fine in *Chester*, where the Conufance was taken by one Commissioner only, but the *Dedimus Potestatem* was to him and another jointly; and this was held to be Error.

If the Writ of Covenant bears Teste after the Teste of the *Dedimus*, this is a manifest Error, and the Fine will be reversed.

Note; Nothing contrary to the Record can be assigned for Error.

Error was brought to reverse a Fine by the Plaintiff as Cousin and Heir to the Earl of *Devon*, who assigns Errors, and brings a *Scire facias ad audiend' Errores*, but does not shew in either of the said Writs how he was Cousin to the Earl; and for this the Defendant pleaded in Abatement of the Writ: But the Court said, it is good enough without shewing how in the Writ of Error or the *Scire facias*, for that the one is but a Commission to hear the Errors, and needs not such Certainty; and the other is but a Writ founded thereon; nor is it requisite that the Title be shew'd therein, unless in a special Case varying from the common Course, as where a special Heir in Tail brings a Writ of Error, or he in Remainder, because as he is to intitle himself, he ought to shew specially how Cousin, or how he hath the Remainder; otherwise not. *Sir Richard Champernoou* against *Godolphin*, *Cro. Jac. 160, 161.*

If a Man acknowledges a Fine in my Name, I may reverse it by a Writ of Deceit. 19 H. 6. 44.

As to Attornments they are not so much in Use as formerly, for new Expedients are found out by Fines to Uses, Bargain and Sale, Lease and Release, and by Deeds inrolled according to 27 H. 8. c. 10. 16, and 4 & 5 Ann. c. 16. by which all Grants and Conveyances made by Fine are good without Attornment, and therefore I shall not here say any Thing more on this Head.

Fines amended.

A Fine was levied of the Manor of *Ighfield*, but in the Deed to declare the Uses it was called the *Manor of Ightfield*, the true Name, and ordered to be amended. 1 Ld. Raym. 1209.

In the Writ of Covenant the Name of the Village of *Waterfall* was omitted by the Negligence of the Writer, and ordered to be put in as well in the Writ of Covenant as in other Parts of the Fine. Mich. 1650. 2 Car. 2. *Parker and Jolley* Plaintiffs, and *Cotton and Ux* Deforcients.

Leave to amend a Fine denied, because the Affidavit was taken by the Attorney who made the Application. Mich. 11 Geo. 2. *Chatterton* versus *Sket*.

The Writ of Covenant was ordered to be amended by inserting these Words (*and Knowston*) in the said Writ, and all Proceedings thereon were ordered to be amended by the said Writ. Hil. 3 Ann. *Courteney* against *Blake* and his Wife.

In

In the *Præcipe* and Concord, Tenements were mentioned (amongst others) to lie in the Parish of *Lanceston* in the County of *Cornwall*, when in fact there is no such Parish in the whole County, but ought to have been in the Parish of *St. Stephen's* near *Lanceston*; and ordered that the *Præcipe* and Writ of Covenant, and all Entries and Records of the said Fine be amended. *Easter 34 Car. 2. Tregeare and Genings.*

Here I shall conclude my *Treatise of Fines*, and proceed to treat of *Common Recoveries*.

OF Common Recoveries.

Now I come to treat of Common Recoveries.

Common Recoveries were invented when Intails grew inconvenient, for an Estate in Tail might last for ever.

Vent. 32.

A Common Recovery is a certain Form or Course (framed by the Wisdom and Policy of the Law) to be observed for the better Assurance of Lands; and Common Recoveries were invented, and are generally used, for barring Estates-Tail, Remainders and Reversions expectant thereon, and to reduce all Estates to that Purity and Condition they were in at the Common Law, and to avoid, as much as may be, the Inconveniences arising from the Statute of *Donis*; and without these Common Recoveries a Tenant in Tail can make no Jointure for a Wife, Provision for his Children, or Payment of his Debts, tho' the utmost Necessity and Emergency of himself and Family require it: And Common Recoveries have been so much in Practice, and become the common Assurance of Mens Estates, and so favourably construed, that they are not to be overthrown by nice Constructions; and the Intentions of the Parties are respected, and the Judges are even *Astuti* in supporting and inventing Reasons to maintain their Authority. *Pigot* 13.

For

For some considerable Time, the only Reason given for these Recoveries was, the Recompence in Value the Issue had, or by Possibility might have; but though the Recompence in Value is now the Reason for barring the Issue in Tail, yet it is not for barring the Reversion or Remainder; and in my Lord *Raymond's* first Reports 478. it is said, that the Reason of the Recompence in Value in the Case of Common Recoveries, is *ratiouna*, but *non unica* (why they bar); for where Recovery is against Tenant in Tail, it will bar the Reversion expectant upon it, and yet the Recompence in Value cannot go to that; which was a great Strain, and shews the Favour allowed to Common Recoveries.

So if Baron and Feme are vouched, the Feme is barred, tho' the Recompence in Value extend not to her, and contingent Estates are barred without a Recompence.

By 7 H. 8. c. 4 Recoverors may avow without Attornment; and the Difference between a Common Recovery and a Fine is, that a Fine proves a Right in him that levies it, but a Common Recovery disapproves and disaffirms all Title of him against whom it is had, and this so strongly, that if there be three or four Descents cast after the Recovery suffered, the Recoveror may enter, for the Recovery binds the Blood, and disapproves the Title. *Pigot* 18.

Tho' Common Recoveries are called in several Statutes Feigned Recoveries, and tho' the Judgments on a Common Recovery may be fictitious as to any actual Litigation between the Parties to the same; yet it is given upon a real Writ, and is a Judgment according to the strict Rules of the Common Law; and

* 32 H. 8.
14 E.

Of Common Recoveries.

and Common Recoveries are allowed by the Statute of 7 H. 8. c. 4.

As to the Antiquity of Common Recoveries some suppose their Origin to be begun in the 12th Year of Ed. 4. from *Taltarum's Case*; but others will have them of far greater Antiquity, and that they took their Rise from *Ostavian Lombard's Case*, 44 E. 3. 21. But however this may be, they have certainly been serviceable to the Publick, as appears from the Favour that has always been allowed them by the Judges. And *Dyer* (Chief Justice) upon a certain Occasion said, 'He was not worthy to be a Lawyer, who durst speak against Common Recoveries, which were the Sinews of Assurances of Inheritances, and grounded upon great Reason and Authority.'

Note; Common Recoveries by Ecclesiastical and Spiritual Persons, as Archbishops, Bishops, Dean and Chapters, Prebendaries, Parsons, Vicars, &c. are prohibited and will not bind their Successors. Stat. 32 H. 8. c. 28. 13 El. c. 20. 15 El. c. 11. 18 El. c. 10, 20. Co. Lit. 441.

In a Recovery four Things must be observed,

First, The Demandant who is Plaintiff in the Writ of Entry, and supposed to be the Party grieved, and therefore demands a Reparation for the Wrong done him, and is properly called the Recoveror.

Note; There must be a Tenant to the Præcipe, either by Right or Wrong; but

after length of Time, tho' there was no legal Tenant to the Præcipe, yet it will be presumed there was. See 2 part Mod. Cases in Law and Equity 143.

Secondly, The Tenant to the Præcipe, and the Wrong-Doer, against whom the Writ of Entry is brought; and there must be a good Tenant to the Freehold, or else the Recovery

is void, for he cannot render the Land as the Writ commands, and the Issue in Tail may reverse it for this Error.

A Common Recovery suffered without a Tenant to the *Præcipe*, and before the *Summons ad Warrantizandum* sued out, afterwards, and before the Return of it, a Tenant was made, and the Recovery held good. 1 *Ld. Raym.* 227. And so if there be a good Tenant to the *Præcipe* before the Return of the Writ of Entry, *Pigot* 29. or any Time before the Judgment is supposed to be given on the Recovery, it is good. But here note, That if the Tenant comes to the Land by his own Act, he can never plead to abate the Demandant's Writ, but has thereby made the Writ good; but otherwise if by Act of Law; for he may abate the Writ by pleading Non-tenure: As if a Son has a *Præcipe* brought against him in the Life of his Father, and his Father dies, he may plead Non-tenure, if the Land descended to him by his Father's Death. *Pigot* 30, 31.

2 *Salk.* 568.

If the Writ of Entry be brought against the Tenant in Tail in Possession, and a Stranger who has nothing in the Land be added and made Tenant with him, yet the Recovery is good, for the Recompence in Value goes to him that lost the Tenancy. 1 *Vent.* 350.

2 *Salk.* 571.

Note; In a Writ of Right a Recovery may be good without a Tenant to the *Præcipe*.

A Tenant to the *Præcipe* is made by a Fine, and the Recovery is suffered, and afterwards the Fine is reversed for Error; yet the Recovery is good. 2 *Salk.* 568. *Lloyd* against *Evelin*.

If

Stiles 320.

Note; A Recovery is good tho' the Bargain and Sale, whereby the Tenant to the *Præcipe* was made, were not inrolled till after the Recovery was compleat, for if there be an Inrolment within 6 Months, then it is good by Relation. *Cases Temp.* Talbot 167.

If a Recovery is suffered by one that has a Remainder in Fee, it is good tho' there is no Tenant to the *Præcipe*.

A Lease and Release to make a Tenant to the *Præcipe*, is said to be good without any Consideration. 1 *Mod.* 262.

He who brings a *Warrantia Chartæ* must be Tenant of the Land the Day of the Writ purchased.

If Tenant in Tail be disseised, and a *Præcipe* is brought against the Disseisor, and he vouches Tenant in Tail, who vouches over; this bars the Entail. *Pigot* 40.

A Recovery in which Tenant in Tail and Tenant for Life are jointly vouched, held good. 2 *Ld. Raym.* 753. *Jennings* versus *Rogers*.

Tenant in Tail and he in Remainder may be vouched jointly: For if the Tenant to the *Præcipe* vouches the Tenant in Tail in Possession and him in Remainder jointly, and they jointly vouch over the common Vouchee, this is good; not but that it may be more regular for him to vouch the Tenant in Tail separately, and the Tenant in Tail to vouch him in Remainder, and he in Remainder to vouch over the common Vouchee; that so the Recovery in Value may not be joint but enure severally; yet the other Way is sufficient: For where in an adversary Action a *Præcipe* is brought against several, 'tis enough that one of them has the Tenancy of the Land; and if he would plead that he is sole Tenant, and traverse the others having any Thing therein, the Demandant may admit that, and yet proceed as to him, and the Writ shall only abate as to the rest; also the others may disclaim:

And as Joining a Stranger with a Tenant does

not

not hurt, so Joining a Stranger with a Vouchee shall not; for he is but *in Loco Tenentis*, a Tenant by the Warranty. 2 Salk. 571.

A. Lessee for Life, Remainder to B. in Tail, and a *Præcipe* is brought against B. if B. happens to have a Surrender of the Lessee for Life, at any Time before the Recovery, 'tis a good Recovery, and the *Præcipe* is made good. Noy, p. 126.

The Conusee of a Fine *Ostab. Pur.* is a good Tenant to the *Præcipe* of a Recovery the same Day; and the Court will suppose a Privity the same Day, to support a Conveyance. Hil. 22 Car. 2. B. R. Fettiplace's Case.

Bargain and Sale, and Fine to Lessee for Years or in Reversion, to make them Tenants to a *Præcipe*, destroys not the Reversion for Years, 2 Roll. Rep. 249. and so is Fountain and Cook's Case, 1 Mod. 107. If Lessee for Years be made Tenant to the *Præcipe* for suffering a Common Recovery; this doth not extinguish his Term, because it was in him for another Purpose. 1 Mod. 107.

In the Case of Dame Griffin and Stanhope, Cro. Jac. 455. a Common Recovery was produced at a Trial; the Counsel on the other Side press'd them to prove who was Tenant to the *Præcipe* at the Time of the Recovery; but the Court would not allow it, for it shall be intended a good Recovery; and if it were otherwise, the Proof ought to be made by the other Party.

N. B. A Fine and Recovery bespoke in Michaelmas Vacation, will be, viz. the Fine of Michaelmas and the Recovery of Hillary Term then next; and in order to the Levying and Suffering the same, the Writ of Covenant must bear *Teste* and be returnable before the Writ of

Of Common Recoveries.

of Entry, viz. it must be returnable *Cro. Martin.*

Thirdly, Of the Vouchee.

UPON a Writ of Entry being brought against the Tenant to the *Præcipe*, he appears either in Person or by Attorney, and defends his Right, and vouches to warranty the Person from whom he claims the Land, and who had, in the Conveyance thereof, bound himself to warrant a just Right and Title thereto, and so prays that the Party may be called in to defend the Title; and if the Vouchee be in Court he immediately enters into Warranty, but if not, then there issues a Summons to Warranty, and then the Entry is, And thereupon he vouches to Warranty *A. B.* let him have him here on the Morrow, &c. summoned in the said County by the Assistance of the Court, &c.

And thus the Demandant is put in a Condition to know of whom to demand the Land, for the Tenant having vouched such a Person to Warranty, that Person by his Warranty becomes a sufficient Person for the Demandant to demand the Land of.

If the Recovery be with single Voucher (that is to say) when the Tenant calls to warrant to him the Lands, the common Vouchee, and who is supposed to appear in Court and to warrant the Lands to the Tenant or Defendant; whereupon the Demandant claims the Land against the common Vouchee, who is supposed to appear and make a faint Defence, by tending an Issue, that *Hugh Hunt* did not disseise the Demandant in the Manner he had set forth in his Declaration, and puts himself (as is supposed)

posed) upon the Country to try it; and upon this the Demandant prays a Day, which is supposed to be given to him, the better to enable him to speak to the Plea, and make out the Truth of the Matter contained in his Count; then the Demandant is supposed to come again into Court, but the common Vouchee never appears, but makes Default, and departs in Contempt of the Court; and thereupon Judgment is given that the Demandant shall recover the Land against the Tenant to the *Præcipe*, and he to recover in Value against the common Vouchee. So it is with double or treble Vouchers, and the last real Vouchee is supposed to recover in Value of the common Vouchee; and upon this a Writ of Seisin is awarded for the Demandant, the Recoveror of the Land, to put him into peaceable Possession thereof.

Note; The first Vouchee is so called in respect that he is vouched to Warranty by the Tenant; and he is called Voucher in respect that he voucheth over a second Vouchee, &c.

A Recovery with single Voucher will bar the Estate the Tenant was in Possession of at the Time the Recovery was suffered, but no other Estate.

But a Common Recovery with double Voucher, is in all Cases most safe, for a Common Recovery with a double Voucher, if the Tenant in Tail comes in as Vouchee, bars all the Estates he has in Possession, and all others tho' discontinued and turned to a Right.

A Recovery with treble Voucher makes a perpetual Bar of the Estate of the Tenant, and of every such Estate of Inheritance that at any Time had been in the first or second Voucher

Of Common Recoveries.

Voucher, or their Ancestors, whose Heirs they are, and of every Reversion thereon expectant.

Fourthly, *Of what Things a Common Recovery may be suffered.*

A Common Recovery, being (as is before observed) a common Assurance, may be suffered of all Things that a Writ of Covenant for levying a Fine lies, and such Persons and by such Names may be Demandants, Tenants and Vouchees in Common Recoveries, as may be Conusors and Conusees in Fines.

A Writ of Entry lieth of an * Acre of Land, of an Acre of Land covered with Water. 12 H. 7. 1, 4. Of a Water Pit. 10 E. 3. and 14 E. 3. 842. F. N. B. Fol. 191. Of a Passage over the Water; of a Bailiwick. F. N. B. 34 Ed. 4. 423. Of an Office. 27 H. 8. 12. Of an Advowson. 4 R. 72. (But this must be understood of an Advowson appendant to a Manor, and not of an Advowson in gross, because the Parson has the Freehold; and therefore it ought not to be by Writ of Entry in the *Post*, but by Writ of *Droit de Advowson*. Pigott 97.)

Of the fourth Part of Tithes; of a Portion or Part of Tithes. Dyer, fol. 84. pl. 83. Of a certain Parcel of Land. Dyer 84. pl. 83. Of the Wardship of Land, and of the Heir, or of the Wardship of Land only. Reg. 161. 22 E. 3. fol. 29. Of all Manner of Ecclesiastical or Spiritual Profits, as of a Rectory,

* Note; In Common Recoveries the Acres are computed according to the Custom of the Country, and not according to 6 R. 67.

Vicarage, Portions, Pensions, Tithe, &c. 32
H. 8. c. 7. Of all and all Manner of great,
 mixt and small Tithes, within the Vill or Ham-
 let of *B.* in the Parish of *A.* howsoever grow-
 ing, happening and yearly renewing within the
 Vill or Hamlet of *B.* in the Parish of *A.* Of
 the fourth Part of Tithes and Oblations of the
 Church of *St. Peter, &c.* 16 *Ed. 3.* Of a
 certain Portion of Tithes or Land, not shew-
 ing how much, of an annual Pension or Rent,
 and of a Rent *de novo.* Pigot 97. In antient
 Time of a Hide-Land, or Plow-Land. 4 *Ed.*
 3. 161. Of an Ox-Land. 6 *E. 3.* 291. Of
 six Foot of Land in Length, and four in
 Breadth. 14 *Aff. 13.* Of a Toft or Scite of
 a Mill. 14 *E. 3.* Of the Hundred of *B.* and
 Bailiwick of *C.* 34 *Ed. 1.* 3 *E. 3.* Of a
 Feeding for six Sheep. 3 *E. 3.* 23. 4 *Ed. 2.*
 Of a Rood of Land. 3 *Ed. 5.* Of a Moiety
 of a Rood of Land. 41 *Ed. 3.* Of a Shop.
Reg. f. 3. Of Elderwood, by the Name of
 four Acres (*or as the Case is*). Of Elderwood.
 11 *Aff. 13.* Of Turbary, by the Name of
 Moor. And a Common Recovery may be of
 an Honour, Island, Barony, Castle, Messuage,
 Curtilage, Dove-house, Land, Meadow, Pa-
 sture, Underwood, Chapel, River, Warren,
 Rectory, View of Frank-pledge, Waife, Estray,
 Felons Goods, *Deodands*, Furze, Heath, Moor,
 &c.

*See the Manner in which the Parcels are to
 be placed afterwards.*

By a Common Recovery a reputed Manor
 will pass. 1 *Lev. 28.* Of Lands within a Li-
 berty. 2 *Vent. 32.* *Otway's Case.*

A Common Recovery may be of Lands in
 a Place known, though it be neither a Vill or
 Hamlet.

Of Common Recoveries.

Hamlet. 2 *Mod.* 49. Of a Moiety or third Part of Land.

A Common Recovery of Lands in Antient Demesne is good, till reversed by the Lord by Writ of Deceit. 4 *Leon.* 123.

Equitable Estates, are barrable by Recoveries as well as legal. *Cases Temp. Talbot.*

Of what Things it is said a Writ of Entry lieth not.

IT lies not of a Ditch, nor of a Pool, nor of a Fishery. 8 *E.* 3. 381. Nor of a Wain of Land; nor of a Common of Pasture. 27 *H. fol.* 12. Nor of Estovers. 2 *E.* 3. Nor of Homage, Fealty, nor Services to be done. 6 *E.* 2. Nor of an Ox-Land, or Ox-Gang, of Marsh Ground. 13 *E.* 3. *f.* 3. Nor of a Selon of Land for the Incertainty, because a Selon is a Parcel of Land, sometimes containing an Acre, sometimes more, and sometimes less.

It lies not of a Garden, Cottage or Croft, nor of a Rood of Land. 13 *E.* 3. Nor of a Quarry, a Mine or Market, 13 *E.* 3. for they lie not in Demesne, but in Profit only; nor of an upper Chamber. 3 *H.* 6. *fol.* 1. Nor of an Annuity, or of a Tenement, but it must be of Houses, and a certain Quantity of Acres. *Moor* 953.

But Use has alter'd this in several Points, and it must be understood, that a Writ of Entry lies not of these Things singly and alone, for every Day's Practice shews, that it will lie of many of these Things when joined with others that are more worthy, and to which they may be Incident.

Fourthly, *The Manner in which the Particulars are to be placed.*

THE Things more worthy and of highest Dignity are to be placed before the Things less worthy, as a Castle before a Manor, a Manor before a Messuage, a Messuage before a Toft or Mill, &c.

Things general before particular, as Land (being the *Genus*) before Meadow or Pasture, the Species.

Entire or whole Things are to be placed before Parts, as a Messuage before the Moiety of a Messuage, &c. For Example,

M. to wit, ‘**C.** D. demands against J. C. a Messuage and 20 Acres of Land with the Appurtenances in B. and a Moiety of the Advowson of the Church of B. &c.’

The Manner of placing the Parcels.

The Honour of A. with the Appurtenances.

The Castle of B. with the Appurtenances.

The Burrough of C. with the Appurtenances.

The Forest of F. with the Appurtenances.

The Chase of G. with the Appurtenances.

The Hundred of D. with the Appurtenances.

The Manor of E. with the Appurtenances.

The Scite of the Manor of H. with the Appurtenances.

The Scite of the late Monastery of J. with the Appurtenances.

A Messuage.

A Shop.

Of Common Recoveries.

- A Cellar.
- A Toft.
- A Mill.
- A Dove-house.
- A Garden.
- Land.
- Meadow.
- Pasture.
- Wood.
- Furze and Heath.
- Moor.
- Ground wherein Rushes grow, or Rushy-Ground.
- Marsh-Land.
- Elder-Wood.
- Land covered with Water.
- A Rent of ten Shillings.
- A Rent of two Capons, two Hens, and one Pound of Pepper.
- Common of Pasture for all Manner of Cattle.
- A Free Fishery.
- A Free Warren.
- Liberty of Foldage.
- A Salt-Pit.
- A Bullary of Salt Water.
- A Passage over the River T.
- A Wharf, a Quoy.
- A Fair and Market with the Appurtenances.
- View of Frank-pledge with the Appurtenances.
- Chattels of Felons, Outlaws, and Persons put in Exigent, Chattels of Waifs, Estrays and Deodands.
- The Rectory of *B.* with the Appurtenances, and all and all Manner of Tithes whatsoever, belonging and appertaining to the said Rectory.
- The Advowson of the Church of *B.*

The Advowson of the Vicarage of the Church of D.

The Moiety of a Messuage.

Note; By the 34, 35 H. 8. c. 16. and 27 Eliz. cap. 9. Recoveries may be suffered in the Counties Palatine of *Chester*, *Lancaster* and *Durham*, and Great Sessions in *Wales*, see the Statutes, and in the Courts of Hustings of the City of *London*, *Priv. Lond.* and in a Court-Baron by Custom. *Kitch.* 176.

The Method of suffering Common Recoveries.

First, Of suffering a Recovery at the Bar; the Tenant and Vouchee appearing in Person, whereby several Fees and Charges are saved. Draw your * *Præcipe* on Paper, if with a single Vouchee, in this Form,

Essex, to wit, ‘ **C**ommand T. J. that he
The Tenant personally voucheth to ‘ justly, &c. render to
warranty † *Edmund* ‘ *A.H.* one Messuage and ten
Wilson. ‘ Acres of Land with the
‘ Appurtenances in D. which
‘ he claims, &c.

† *Note;* The Common Vouchee is generally Bag-bearer to the *Custos Brevium* of the Court of Common Pleas, and *Edmund Wilson* is now Bag-bearer.

* *Trinity, 11 Ann.* it was declared by the Court, that all *Præcipes* for passing Recoveries should be marked with the proper Prothonotary's Name, and at the Time of passing the same, should be delivered into Court by one of the Sergeants, otherwise no Recovery to be entred.

Of Common Recoveries.

If it be with a double Vouchor.

Essex, to wit, ‘ **C**ommand T. J. that
 The Tenant personally ‘ he justly, &c. ren-
 voucheth to warranty ‘ der to A. H. one Mes-
 || S. F. Gentleman, ‘ suage and ten Acres
 who being also present, ‘ of Land with the Ap-
 voucheth over Edmund ‘ purtenances in D. which
Wilson. ‘ he claims, &c.

|| If it be with a treble or quadruple Vouchee, you only vary it according to the Number of Vouchees, always naming the Common Vouchee last.

A Præcipe where the Tenant appears in Person, and the Vouchee or Vouchees by Attorney.

M. to wit, ‘ **C**ommand A. B. that
 The Tenant personally ‘ he justly, &c. ren-
 voucheth to warranty ‘ der to C. D. four Mes-
 E. F. (whereupon the ‘ suages and ten Acres
 Summons is returnable ‘ of Land with the Ap-
 on—) who by Attorney ‘ purtenances in D. which
 voucheth over + Ed- ‘ he claimeth, &c.
mund Wilson.

† The Common Vouchee.

† The Common Vouchee is now
 Bag-bearer to the Coffer-Bearer of the Court
 of Common Pleas, and Edmund Wilson is now
 Bag-bearer.

† The Common Vouchee is now
 Bag-bearer to the Coffer-Bearer of the Court
 of Common Pleas, and Edmund Wilson is now
 Bag-bearer.

† Præcipe

A Præcipe where neither the Tenant or Vouchee appear in Person, but by Attorney.

Middlesex, to wit, ‘ **C**ommand *A. B.*
 ‘ that he justly,
 ‘ *Ec.* render to *C. D.*
 ‘ four Messuages and
 ‘ ten Acres of Land
 ‘ with the Appurte-
 ‘ nances in *D.* which
 ‘ he claimeth, *Ec.*
 The Tenant by Attorney
 voucheth to warranty *J. S.*
 and *P.* his Wife, (whereupon
 the Summons is returnable on
 the Morrow of the Holy
 Trinity) who also by their
 Attorney vouch over *Ed-*
mund Wilson.

In the next Place, you must go with the Tenant and Vouchee or Vouchees down to *Westminster Hall*, and place them on the outside the Bar, (unless the Vouchee be a Peer, for if he is, he must be placed in the Middle of the Bar, between the King's Serjeants, or the two eldest Serjeants in their Absence) and the Court being at * Leisure, give the *Præcipe* to a Serjeant, who will count thereon, *i. e.* the Count in the Recovery, the Voucher to Warranty, and the Prayer of an Imparlance are repeated by the Serjeants. After this the Serjeant you gave the *Præcipe* to, will subscribe his Name, and deliver the *Præcipe* back to you.

Pay the Serjeant's Clerk for a Recovery, with a single Vouchee, 6*s.* if with a double Vouchee 8*s.* a treble Vouchee 10*s.* a quadruple 12*s.* and when the Tenant or Vouchee appears by Attorney, 4*s.* more.

The Tenant's and Voucher's Appearance being recorded, and the Serjeant's Plea ended,

* The best Time is when the Judges first sit down, before they enter upon Business,

Of Common Recoveries.

give the *Præcipe* to the Secondary (or one of the Cryers will for you) of that Prothonotary in whose Office you intend the Proceedings shall be entered, and he will enter it in his Book, and mark the same thus, *At the Bar*.

The Secondary's Fee is 4*s.* 6*d.* and if it be by Warrant of Attorney you pay him 2*s.* more, and it is usual to give the Cryer 6*d.* for his Trouble in getting the *Præcipe* entred for you.

When your *Præcipe* is thus passed at the Bar, make a Copy of it for the Cursitor of the County where the Lands lie, for a Writ of Entry, and which he accordingly makes out in this Form.

The Form of a Writ of Entry.

‘ **G**EOERGE the Second, &c. To the Sheriff of *Essex*, Greeting. Command T.
 ‘ J. that justly and without Delay he render
 ‘ to A. H. four Messuages and ten Acres of
 ‘ Land with the Appurtenances in D. which
 ‘ he claims to be his Right and Inheritance,
 ‘ and into which the said T. hath not an Entry;
 ‘ but after a Disseisin which *Hugh Hunt*
 ‘ thereof unjustly and without Judgment hath
 ‘ made to the said T. J. within thirty Years
 ‘ now last past, as he saith, And whereupon he
 ‘ complaineth, that the said T. J. deforced
 ‘ him, and unless he shall so do, and the said
 ‘ A. H. shall give you Security that his Suit
 ‘ shall be prosecuted; then summon by good
 ‘ Summoners the said T. J. that he be before
 ‘ our Justices at *Westminster*, in, &c. (*naming*
 ‘ *the Return*) to shew wherefore he will not;
 ‘ and have you there the Summoners and this
 ‘ Writ.

Writ. Witness Ourself at *Westminster*, the
Day of in the 23d Year of
our Reign.

You pay the Curfitor for this Writ 7s. 6d.
and if the Parcels are very long, 6d. more.

Then proceed to compound your Writ of
Entry, as in a Writ of Covenant upon a Fine.
See *Compounding a Writ of Covenant*. You
pay at the Alienation Office (besides the Fine)
1s. 6d. to the Clerk, and 6d. to the Receiver
in Term, and the same if out of Term while
the Commissioners sit at the Office; and after
2s. 6d. to the Clerk, and 6d. to the Receiver.

While the Writ of Entry remains at the
Alienation Office, prepare a Draught of your
Recovery, in which be careful to name the
Parcels as they are mentioned in the Writ of
Entry, and you'll do well to leave the Draught
of the Recovery to be perused by the Prothon-
otary's Clerk, and get from him a Plea Roll
of that Term the Writ of Entry is returnable,
to enter the Recovery upon.

Three Days after compounding, call at the
Alienation Office for your Writ of Entry, and
make out a Writ of Seisin.

The Form of a Writ of Seisin.

GEORGE the Second, &c. To the She-
riff of *Middlesex*, Greeting. Know you
that *A. B.* in our Court before our Justices at
Westminster, hath recovered his Seisin against
C. D. of four Messuages (*naming the Parcels*)
with the Appurtenances in *D.* by our Writ
of Entry upon a Disseisin in *le post*; There-
fore we command you, that without Delay
you cause the said *A.* to have compleat Sei-
sin

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“ fin of the said Tenements with the Appur-
 “ tenances, and do you forthwith make appear
 “ to our Justices at *Westminster*, in what Man-
 “ ner you shall have executed this Precept,
 “ and have you there this Writ. Witness Sir
 “ *John Willes*, Knight, at *Westminster*, &c.”

Note; The Writs of Entry and Seisin being spoiled by the Rain after they were received by the *Custos Brevium* and deposited in the Treasury, the Court ordered the new Writs to pass the Alienation and the several Offices without Fine or Fee, upon Sight of the *Custos Brevium*'s Receipts, and reading the Affidavit and Exemplification, and Deed to lead the Uses of the Recovery. *Atterbury and others against Prior*; Trin. 3 Geo. 1. 1717.

Some Observations as to the Teste and Return of a Writ of Seisin.

THIS Writ must be returnable at least 15 Days after the Teste-Day of the Return of the Writ of Entry; but if the Writ of Entry be returnable towards the latter End of the Term, so that there are not 15 Days between the Return of the Writ of Entry and the last Return of the Term, then the Writ of Seisin must be returnable forthwith; but if the Writ of Entry be returnable the last Return of any Term except *Easter*, then the Seisin must be returnable the first Return of the subsequent Term; and if returnable the last Return of *Easter* Term, then the Seisin must be returnable the second Return of *Trinity* Term. See the following Observations on the Returns of the Terms.

Hilary

Hilary Term.

Hilary Term.

On the <i>Oleaze</i> of St. Hilary.	On the <i>Oleaze</i> Purification.
In 15 Days from the Day of St. Hilary.	Forthwith.
On the Morrow of the Purification.	Selfm ret. The same.
On the <i>Oleaze</i> of the Purification.	15 <i>Easter</i> .

Easter Term.

Entry tet. { 15 Days Easter.
 { Three Weeks Easter.
 { One Month Easter.
 { Five Weeks Easter.
 { Morrow Ascension.

Seint ret. { Five Weeks Easter.
 { Morrow Ascension.
 { Forthwith.

Same, { Ascend Thunda.
 { Orlave Trinity.

Trinity

Trinity Term.

Entry let. } *MORROW TRINITY* } *Three Weeks Trinity.*
 } *Morrow Trinity.* } *Forthwith.*
 } *15 Trinity.* } *Forthwith.*
 } *Three Weeks Trinity.* } *Three Weeks Mich.*

Michaelmas Term.

Entry let. } *Three Mich.* } *Morrow Martin.*
 } *One Month Mich.* } *Octave Martin.*
 } *Morrow All Souls.* } *15 Martin.*
 } *Morrow Martin.* } *Forthwith.*
 } *Octave Martin.* } *Forthwith.*
 } *15 Martin.* } *Octave Hilary.*

Note;

Note; The Writ of Seisin must be tested the fourth Day (*i. e.* the Appearance Day) inclusive from the Return of the Writ of Entry; for Example, if the Entry be returnable on the *Octave Hilary*, the Writ of Seisin must be tested on the 23d of *January*.

You make the Writ of Seisin yourself on a 1s. 6d. Stamp, and get it signed by the Prothonotary, who takes nothing till he signs the Exemplification; you must seal it and pay 7d.

Indorse the Sheriff's Return of the Writ of Seisin thus.

' **B**Y Virtue of this Writ to me directed
' * on the Day of in the with-
' in written Year, I caused full Seisin of the
' Tenements within specified, with the Ap-
' purtenances, to be delivered to the within
' named *A. B.* as I am within commanded.'

C. D. Esq; Sheriff.

* *Note*, That when the Writ of Seisin is made returnable any Return of the Term, the Day of giving Seisin may be any Day between the Teste and Return of the Writ, so it be not on a *Sunday*; and it is usually the Midway between the Return and the Teste thereof; but if returnable forthwith, then the Day of Seisin is about the Midway between the Teste thereof and the last Day of the Term.

Note also, That a Man may be supposed to ride from *Westminster* to the Place where the Lands lie and back again in six Days, in any Part of *England*.

Pin the Writ of Entry and Seisin together, and leave them at the Return-Office in the
Temple,

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Temple, and pay 1s. 6d. for the Return of each Writ, and call for them in two Days after.

Then leave the Writ of Entry at the Attorney General's Chambers, for his Hand (according to 30 Car. 2. 1678.) for which you pay 10s. and in two Days after take it away; and this is the last Office this Writ passes through.

Your Writs being returned, as before mentioned, enter your Recovery on the Roll in a strong ingrossing or Text Hand, as far as in *Mercy*, &c. and afterwards in a small Hand to the End.

The next Thing is to make out an Exemplification for your Client, in a strong ingrossing or Text Hand, on a Skin of Parchment with a ten Shilling Stamp thereon, in the following Manner:

The Form of the Exemplification of a Recovery with single Voucher, where the Parties appear in Person at the Bar.

‘**G**EORGE the Second, &c. To all to whom these our present Letters shall come Greeting. Know ye, that among the Pleas of Land inrolled at *Westminster* before Sir *John Willes*, Knight, and his Brethren, our Justices of the Bench, of the Term of — in the — Year of our Reign, upon the * — Roll it is thus contained: *Writ of Entry returnable on*, &c.’ and then beginning with the Roll continue it in the same Hand to the End without any breaking off, (except as after mentioned) * as by the said

* The Number of the Roll you entered it on:

‘ Writ

Writ he was commanded; All and singular which Premises, at the Request of the said A. (the Demandant) by the Tenor of these Presents we have commanded to be exemplified. In Testimony whereof we have caused our Seal appointed for sealing of Writs in the said Bench, to be affixed to these Presents. Witness Sir John Willes, Knight, at Westminster, the — Day of — in the — Year of our Reign

Borrett.

Please to observe, That if the Writ of Entry (or Summons when necessary) be returnable so late in the Term that the Writ of Seisin cannot be returnable in the same Term, but that it must be returnable in the next Term. After having awarded the Return of the Writ of Seisin you must break off, and conclude as before, *All and singular which said Premises, &c.* And upon the folding up or Label of the Exemplification write in the same * Hand, *At which Day, &c.* But in the Roll there is not any such Distinction.

The *Teste* of the Exemplification is govern'd by the Return of the Writ of Seisin, for if the Writ of Seisin be returnable forthwith, the Exemplification must be tested the last Day of the Term.

If returnable in the same Term Judgment is given, it must be tested some Day afterwards in the same Term.

If returnable of a subsequent Term, it must be tested the last Day of the Term Judgment is given.

* I think something less.

Your

Of Common Recoveries.

Your Exemplification being thus made, carry it with your Roll and Writs to the Prothonotary's Office, and ask for the Recovery Remembrance of that Term your Writ of Entry is returnable; ingross the *Præcipe* thereon, and add in small Hand the Return and *Teste* of your Writ of Entry, with the Names of the Pledges, Summoners and Sheriff; then examine the *Præcipe*, Writs, Roll, and Exemplification with the Prothonotary, who will sign your Exemplification and tell you how to docquet your Recovery.

You pay the Prothonotary, if your Recovery be with a double Voucher in Person, 13s. If with a double Voucher by Warrant of Attorney 1 l. 5s. and so according to the Number of Vouchers.

After this, seal your Exemplification at the Seal Office, and pay 3s. to wit, for the Seal and Box 2s. 2d. and to the Sealer 10d.

Lastly, be careful to file both your Writ of Entry and Seisin with the *Custos Brevium* of the Common Pleas, for that is the Warrant for your Proceedings. You pay him 2s. 6d. out of which he allows 6d. to the Clerk that sues out the Recovery; and then you have no more to do but to deliver the Exemplification of the Recovery to your Client. *Note*; By the Statute 23 *Eliz. c. 3.* an Office was erected for the Enrolment of Writs of Entry, Summons, Warrants of Attorney, Writs of Seisin and Covenant; and the Exemplifications of such Writs (by the said Act) have the same Force and Power as the Writs themselves; and therefore it has been usual, especially in important Cases, to exemplify the Writs, &c. for fear of Embeizilment, whereby the Recoveries might be overthrown.

Thus have I carefully endeavoured to shew you Step by Step the Method of suffering a Common Recovery when the Parties appear in Person at the Bar, with the Exemplification thereof. I shall in the like Manner endeavour to shew you how to suffer a Common Recovery when the Parties appear by Attorney.

It is usual to make such Person a Tenant to the *Præcipe* as will be able and willing to go to the Bar of the Common Pleas to vouch to Warranty; but when the Tenants or Vouchees will not, or are not able to go thither for that Purpose, they may appear by Attorney; and the Warrants of Attorney may be taken two several Ways.

First either by any of the Judges of Assize of either Bench, Barons of the Exchequer, (and as some say, by Serjeants at Law) in their Circuits without a *Dedimus Potestatem*: Or,

Secondly, by a *Dedimus Potestatem*, which is a Commission resembling that before mentioned for taking the Acknowledgment of a Fine, namely, upon a Supposition that the Tenant or Vouchee is so feeble as not to be able to travel to *Westminster* for that Purpose.

And this *Dedimus* impowers the Commissioners therein named to take the Acknowledgment of a Warrant of Attorney, which the Tenant or Vouchee executes, to empower two Attornies, or one of them, to appear for him at the Return of the Writ of Entry.

Of Common Recoveries.

First, How to take Warrants before a Judge for the Tenant in single Voucher.

Draw your *Præcipe* on Parchment thus :

M. to wit, ‘ **C**ommand C. D. Esquire, that
 ‘ he justly, &c. render to A.
 ‘ B. Gentleman, 20 Messuages and five Gar-
 ‘ dens with the Appurtenances in E. which
 ‘ he claimeth, &c.’

M. to wit, ‘ **C**. D. Esquire, puts in his Stead
 ‘ * F. G. and H. J. jointly
 ‘ and severally against A. B. Gentleman, to
 ‘ gain or lose in a Plea of Land,
C. D.

Then go with the Party before a Judge, ha-
 ving first underwritten the Caption, to which
 the Judge will subscribe his Name.

The Form of the Caption is thus:

*Taken and acknowledged the
 Day of in the Year of the
 Reign of his present Majesty George
 the Second, King of Great Britain,
 &c. before*

Note; There must be a Copy on Paper to
 which the Judge also puts his Hand.

* *Note;* There must be two Attornies at the least, and
 their Authority joint and severall, that if one die the other
 may proceed.

Next

Next get your Writ of Entry made and passed thro' the Alienation Office, and from thence to the Attorney General's for his Hand.

Then pass your Recovery at the Bar, as before directed.

If both the Tenant and Voucher appear by Attorney, and your Recovery be with a double Voucher, draw your Warrants of Attorney (on unstampt Parchment) thus:

M. to wit, ' **C**ommand *J. W.* that he justly, &c. render to *R. G.* one Messuage and ten Acres of Land with the Appurtenances in *M.* which he claimeth, &c.'

M. to wit, ' **J.** *W.* puts in his Stead *A. R.* and *T. T.* his Attornies jointly and severally against *R. C.* to gain or lose in a Plea of Land.'

M. to wit, ' **H.** *M.* whom *J. W.* voucheth to Warranty, appoints in his Stead *R. S.* and *J. P.* jointly and severally against *R. C.* to gain or lose in a Plea of Land.'

Taken and acknowledged by the said

J. W. and H. M. the * &c. as above.

* The Caption of the *Dedimus Potestatem* to take the Tenant's and Voucher's Warrant, must be dated before the Return of the Writ of Entry, or else it is bad.

Of Common Recoveries.

A Warrant of Attorney with a treble Voucher is thus:

M. to wit, 'Command
M. to wit, ' J. W. puts
M. to wit, ' H. M. whom J. W. } as above.
 ' voucheth, &c.'

M. to wit, ' O. D. whom H. M. voucheth
 ' to Warranty; appoints in
 ' his Stead C. S. and W. H. jointly and severally
 ' rally against R. C. to gain or lose in a Plea
 ' of Land.'

Now proceed to get your Writ of Entry made and passed, as before observed, and as to a Writ of Summons (if necessary) and for the compleating of your Recovery, see after where the Warrant of Attorney for the Vouchees are taken by *Dedimus*.

Note, That although the Tenant appears by Warrant of Attorney, if either the Recovery be with single Voucher, or the Vouchers come in Person, you need no Summons, and so it may be a perfect Recovery of one Term.

Secondly, Directions for taking Warrants by *Dedimus Potestatem* directed to Commissioners, which is the most used, the first being seldom practised. And as before is observed, the Tenant to the *Præcipe* is usually one who lives in Town, and who will appear in Person at the Bar; a *Dedimus* to take the Acknowledgment of the Warrants of Attorney of the Vouchee only, will be sufficient.

Where

Where the Tenant appears in Person at the Bar, and the Vouchees by Attorney.

DRAW a *Præcipe* on Paper, and go down with the Tenant to the Bar, observing the Direction before given, where the Parties appear in Person at the Bar.

Instructions for the Dedimus to take the Warrant of Attorney of the Vouchees.

COPY your *Præcipe* passed at the Bar for the Cursitor of the proper County to make out a *Dedimus*, underwriting the Names of the Commissioners to whom you would have the Writ directed thus :

Ded. Pot. directed to $\left\{ \begin{array}{l} A. B. \text{ Knight,} \\ C. D. \\ E. F. \\ G. H. \end{array} \right\}$ Gentlemen.

I take it that if your *Dedimus* be for the Tenant's Warrant only, you do not name the Vouchee in the Instructions for the Cursitor.

You pay for the *Dedimus* 1*l.* 5*s.* 8*d.* then appoint a Day for two of the Commissioners to go to the Party and take the Acknowledgments of the Warrants of Attornies, which must be wrote on Parchment without any Stamp, and a Copy of the *Præcipe* in this Form :

Kent, to wit, ' **C**OMMAND, &c. (as in the *Præcipe*.)

Of Common Recoveries.

Kent, to wit, ‘ **C.** D. and S. his Wife, whom
 ‘ *A. B.* voucheth to War-
 ‘ ranty, appoint in their Stead *C. S.* and *A. F.*
 ‘ their Attornies jointly and severally against
 ‘ *M. O.* to gain or lose in a Plea of Land
 ‘ *C. D.*
 ‘ *S. D.*

Taken and acknowledged by the
said C. D. and S. his Wife, the
—Day of— in the Year of
our Lord 1750. before us

A. B.

C. D.

The Acknowledgments being duly taken,
 annex the Warrant of Attorney to the *Dedi-*
mus, and on the *Dedimus* indorse the Return
 thus:

‘ The Execution of this Writ (or Commis-
 ‘ sion) appears in a certain Schedule hereto an-
 ‘ nexed.

A. B.

C. D.

Note; Tis prudent to examine the Wife
 apart when she joins with her Husband in a
 Recovery.

Next carry your *Dedimus* and Warrant of
 Attorney to the proper Curfitor, who will
 make out your Writ of Entry, *Mittimus* and
 Transcript, for which you pay him 20s. then
 carry your Writ of Entry to be compounded;
 and it will be prudent to carry the Draught of
 your Recovery to be perused by the Protho-
 notary or his Clerk, and ask him for Rolls to
 enter

enter the Proceedings on, as directed before : And in order to Know what Terms the Rolls are to be of, observe that if your Writ of Entry and * Summons are both returnable the same Term, then all the three Rolls, namely, the Summons Roll, and the Recovery Rolls, (which are commonly two) must be of the same Term, but if the Writ of Entry is returnable in one Term, and the Writ of Summons in another Term, then the Summons Roll must be of that Term the Writ of Entry is returnable.

In the mean Time, while the Writ of Entry is at the Alienation Office make out the Summons (observing the Note before) and Seisin, and carry them to be signed by the Prothonotary and seal them, and carry them with the Writ of Entry to the Return Office, and pay for the Returns 4s. 6d.

The Form of a Writ of Summons for the first Vouchee.

GEORGE the Second, &c. To the Sheriff of Kent, Greeting. Summon by good Summoners, N. D. (the Vouchee) that he be before our Justices at *Westminster* on the Octave of St. *Martin*, to warrant to C. P. (the Tenant) four Messuages, &c. (mentioning the Parcels) with the Appurtenances in S. which C. S. (the Demandant) in our Court before our Justices at *Westminster* claimeth

Note; You need no Summons if the Recovery be with a single Voucher, or the Vouchers come in Person, although the Tenant appears by Warrant of Attorney, and so it may be a perfect Recovery of one Term.

Of Common Recoveries.

‘ as his Right against the said C. P. (the Tenant) by our Writ, upon a Disseisin in *le Post*: And whereupon the said C. P. in our same Court hath vouched the said N. D. to be summoned in your County, to warrant against the said C. S. (the Demandant): And have you there the Summoners and this Writ. Witness Sir *John Willes*, Knt. at *Westminster* the twenty-third Day of *October* in the twenty-third Year of our Reign.’

Observations as to the Teste and Return of the Writs of Summons and Seisin.

BEfore the Statute 17 Car. 2. c. 6. there were nine Returns between the Return of the Writ of Entry, and Return of the Writ of Summons, and so betwixt one Writ of Summons and another; but by that Statute they are abridged to five Returns inclusive only, as if the Writ of Entry be returnable 3 *Mich.* the Summons must be returnable *Octave Martin*. Thus you see the Summons must be returnable the fifth Return after the Return of the Writ of Entry, accounting the Return of the Writ of Entry for one; and so it is betwixt one Summons and another.

The Writ of Seisin must be returnable on some Return fifteen Days at least after the *Teste* of the Writ of Summons; but if there are not fifteen Days between the Return of the Summons and the last Return of the Term, the Seisin must be returnable forthwith. If the Summons be returnable the last Return of any Term (except *Easter*) the Seisin must be returnable the first Return of the subsequent Term; and

and if the Writ of Summons be returnable the last Return of *Easter* Term, then the Writ of Seisin must be returnable the second Return of *Trinity* Term.

But for your further Instructions and Ease, as the Writ of Entry governs the Return of the Writ of Summons, and the Writ of Summons the Return of the Writ of Seisin, I have set forth the Returns of each Writ throughout the four Terms, by which you will, at one View, know how to make each Writ properly returnable.

3 Summ.
1st Trin.
1st Easter.
1st Michaelmas.
1st Hilary.

Easter Term

3 Seisin.
1st Michaelmas.
3 Easter.
1st Hilary.

Hilary Term

1st Michaelmas.
3 Easter.
1st Michaelmas.
3 Easter.
1st Hilary.

3 Summ.
1st Michaelmas.
3 Easter.
1st Hilary.

Hilary

Of Common Recoveries.

And if the Writ of Summons be returnable the
Return of Writ of Summons, then the Writ of
Seisin must be returnable the second term of
Twelve Term.
But you further inquire, and ask,
of Entry ret. of Entry ret. of
Summons, and the Writ of Summons, and the Writ of
Seisin, of the Writ of Summons, I have
the return of each of them, and the return of
the four terms, by which you will, at one
View, know how to make each Writ properly
returnable.

Hilary Term.

Entry ret. { O^{ctave} Hil.
15 Hil.
Mor. Hil.
O^{ctave} Purif. } Summons ret.

{ 15 Easter,
3 Easter,
1 Mon. Easter,
5 Easter. } Seisin ret.

{ 5 Easter.
Mor. Ascension.
Forthwith.
Forthwith. } Entry ret.

Easter Term.

Entry ret. { 15 Easter,
3 Easter,
1 Mon. Easter,
5 Easter,
Mor. Ascen. } Summons ret.

{ Mor. Ascen.
Mor. Trinity,
O^{ctave} Trinity,
15 Trinity,
3 Trinity. } Seisin ret.

{ O^{ctave} Trinity.
3 Trinity.
Forthwith.
Forthwith.
3 Mich. } Entry ret.

Trinity Term.

The

Trinity Term.

Entry ret. { Mor. Trinity,
O Eave Trin.
15 Trin.
3 Trin.

Summons ret.

{ 3 Mich.
1 Mon. Mich.
Mor. All Souls,
Mor. Martin,

Seisin ret.

{ Mor. Martin.
O Eave Martin.
15 Martin.
Forthwith.

Michaelmas Term.

Entry ret. { 3 Mich.
1 Mon. Mich.
Mor. All Souls,
Mor. Martin,
O Eave Martin,
15 Martin.

Summons ret.

{ O Eave Martin,
15 Martin,
O Eave Hil.
15 Hil.
Mor. Purifi.
O Eave Purifi.

Seisin ret.

{ Forthwith.
O Eave Hil.
O Eave Purifi.
Forthwith.
Forthwith.
15 Easter.

Of Common Recoveries.

The *Teste* of the Writ of Summons must be the fourth Day (*i. e.* the Appearance Day) inclusive from the Return of the Writ of Entry: As for Example, if the Entry be returnable 3 *Mich.* the Summons must be tested the 23d *October*, and the Writ of Seisin must be also tested the fourth Day from the Return of the Writ of Summons.

Note; The second Writ of Summons (which is not to be sued out, unless the Recovery be by treble Voucher) must be tested the fourth Day inclusive from the Return of the first Writ of Summons, and must also be returnable the fifth Return inclusive after the Return of the first Writ of Summons; and the Writ of Seisin must be tested and returned after a second Writ of Summons, in the same Manner as before mentioned concerning one Writ of Summons. For Example; Suppose the Writ of Entry be returnable 3 *Mich.* the first Summons must be tested 23d *October*, and returnable *Octave Martin*; the second Summons must bear *Teste* the Day of and made returnable the Morrow of the Purification, and the Writ of Seisin must be tested
Day of and returnable forthwith,

The Form of a Writ of Summons for a second Vouchee.

‘ **G**EORGE the Second, &c. To the
‘ Sheriff, &c. Greeting. Summon by
‘ good Summoners T.W. (the second Vouchee)
‘ that he be before our Justices at *Westminster*,
‘ on * the Morrow of the Purification of the

* The fifth Return from the first Summons inclusive.

‘ blessed Virgin *Mary*, to warrant to *N. D.*
 ‘ (the first Vouchee) (whom *C. P.* (the Tenant)
 ‘ heretofore in our Court before our Justices
 ‘ at *Westminster* hath vouched to warranty)
 ‘ four Messuages (*naming the Parcels*) with the
 ‘ Appurtenances in *E.* which *C. S.* (the De-
 ‘ mandant) in our Courts before our Justices
 ‘ at *Westminster* claims as his Right by our
 ‘ Writ of Entry upon a Disseisin in *le post*,
 ‘ and whereupon the said *N. D.* (the first
 ‘ Vouchee) in our said Court hath vouched
 ‘ over the said *T. W.* (second Vouchee) to be
 ‘ summoned in your County to warrant against
 ‘ the said *C. S.* (the Demandant) and have you
 ‘ there the Summoners and this Writ. *Wit-*
 ‘ nefs Sir *John Willes*, Knight, the * Day
 ‘ of in the 23d Year of our Reign.

Note; No Summons or Warrant against the common Vouchee.

Indorse the Return of the Writ of Seisin as mentioned in the Recovery at Bar, and after you have called at the Return Office for your Writs, carry the Writ of Entry to the Attorney General’s Chambers for his Hand, as before directed.

Note; While the Writs are passing the several Offices, you may be entring up the Rolls and exemplifying your Recovery, or stay till they have passed the several Offices; the Method of which follows.

* The fourth Day from the Return Day of the first Summons inclusive.

How

Of Common Recoveries.

How to enter up the Summons Roll.

On the Summons Roll begin with the Draught of your Recovery, in a large Ingrossing or Text Hand, thus:

Entry of the
Summons.

Kent, to ‘ **W** P. Gent. and T. L. Gent.
 wit, ‘ personally demand against
 ‘ S. J. Esq; and G. H. Gent. (*naming the Par-*
 ‘ *cels as mentioned in the Præcipe to the Words*)
 ‘ with the Appurtenances, which they claim
 ‘ as their Right and Inheritance, and wherein
 ‘ they the said S. J. and G. H. have no Entry’,
 (or rather, have not any Entry; which I
 think is better; but this and all other Obser-
 vations I humbly submit to the mature Con-
 sideration of Practisers of better Judgment
 than myself) ‘ but after a Disseisin which *Hugh*
 ‘ *Hunt* thereof or thereon unjustly and with-
 ‘ out any Judgment made to the said J. S.
 ‘ and G. H. within thirty Years, &c. And
 ‘ whereupon they declare, that they were seised
 ‘ of the said Messuages, &c. with the Appur-
 ‘ tenances, in their Demesne as of Fee (or as
 ‘ of a Fee) and Right, and of the said Ad-
 ‘ vowson as of a Fee and Right, in Time of
 ‘ Peace in the Time of our Lord the King
 ‘ that now is, (or in Time of Peace in the
 ‘ Reign of our Sovereign Lord the King that
 ‘ now is,) by taking the Profits thereof to the
 ‘ Value, &c. and wherein, &c. (or and into
 ‘ which) &c. and thereof they bring their
 ‘ Suit, &c. and the said S. J. and H. G. per-
 ‘ sonally (or in their proper Persons) come and
 ‘ defend their Right, when, &c. and call there-
 ‘ to to warranty H. P. summoned in the said
 ‘ County.

County, and that they may have him here on ——— (Return of the Summons) by the Aid of this Court. The same Day is here given to the said Parties, &c.

* And thereupon the said S. J. and G. H. put in their Stead C. S. and T. W. jointly and severally against the said W. P. and T. L. of the said Plea, &c.

Thus ends the Summons Roll.

How to enter up the Recovery Roll.

Begin on the Recovery Roll in a small Hand, the *Incipitur* of the *Mittimus* and Transcript, thus:

OUR Lord the King hath sent here to his Justices of the Bench, his Writ of *Mittimus* closed, (together with the Tenor of his said Majesty's certain Writ of *Dedimus* for receiving a Warrant of Attorney, and the Return thereof, and also the Warrant of Attorney taken thereon) in these Words, (to wit,) George the Second, &c. going on in the same Line and Hand with the *Mittimus* and Transcript *verbatim* to the End, entring the *Mittimus* (the smallest Writ) first.

Then begin in a new Line, in a strong In-grossing or Text Hand, to enter your Recovery, thus:

* The Words in this Article must be in small Hand.

The

*The following is a Recovery with double
Voucher, with Warrants of Attorney.*

• The Sum-
mons Roll.

‘ **H**eretofore, (it is thus contained in the
‘ 68th * Roll) as it appeareth of the
‘ Term of last past. *Kent, to wit, W.*
‘ *P. Gent. and T. L. Gent. &c.*’

Or you may begin thus:

‘ **E**lsewhere, as it appears in the Term of
‘ last past upon the 68th Roll, (*i. e.*
‘ the Summons Roll) it is thus contained, *Kent,*
‘ *to wit, W. P. Gent. and T. L. Gent. in their*
‘ *own proper Persons (or personally) demand*
‘ *against S. J. Esq; and G. H. Gent. the Ma-*
‘ *nor of E. with the Appurtenances, and two*
‘ *Messuages, 200 Acres of Land, 100 Acres*
‘ *of Meadow, 50 Acres of Pasture, 10 Acres*
‘ *of Wood, Common of Pasture, a Free*
‘ *Fishery, Knight’s Fee, Wards, Marriages,*
‘ *Escheats, Reliefs of Courts, Court Leet,*
‘ *View of Frank-pledge, with the Appurte-*
‘ *nances in D. (naming the Towns) also of the*
‘ *Rectory of E. with the Appurtenances; al-*
‘ *so all Manner of Tithes, Oblations and Ob-*
‘ *ventions whatsoever, yearly arising, growing*
‘ *and renewing in E. and the Advowson of*
‘ *the Vicarage of the Church of E. which they*
‘ *claim as their Right and Inheritance, and*
‘ *wherein they the said S. J. and G. H. have*
‘ *not an Entry, but after a Disseisin which*
‘ *Hugh Hunt thereof (or thereon) unjustly and*
‘ *without any Judgment made to the said S.*
‘ *J. and G. H. within thirty Years, &c. And*
‘ *whereupon*

whereupon they declare, that they were seised
of the said Manor, Tenements, Common of
Pasture, Free Fishery, Knight's Fee, Wards,
Marriages, Escheats, Reliefs of Court, Court
Leet, View of Frank-pledge and Rectory,
with the Appurtenances, and of the said
Tithes, Oblations and Obventions, in their
Demefne as of a Fee and Right, and also of
the said Advowson as of a Fee and Right,
in the Time of Peace, in the Time of our
Lord the King that now is, by taking the
Profits thereof to the Value, &c. and where-
in, &c. and thereof they bring their Suit, &c.

And the said J. S. and G. H. in their own
proper Persons (or personally) come and de-
fend their Right, when, &c. and thereupon
vouch to Warranty S. T. let them have him
here on

Summons.

summoned in the said Court, &c. The
by the Assistance of the Court, &c. The
same Day is here given to the said Parties,
&c. and hereupon the said S. J. and G. H.

put in their Stead C. S. and W. H. their At-
tornies jointly and severally against the said
W. P. and T. L. of the said Plea, &c. And

Tenants War-
rant of At-
torney.

now at this Day (namely) on (same Re-
turn as above) as well the said W. P. and T.

L. come here in their own proper Persons (or
personally come here) as the said S. J. and G.

H. by the said C. S. their Attorney, and the
said S. T. being summoned comes likewise

by T. S. his Attorney, and freely Warrants
to them the said Manor, Tenements, Com-

mon, Free Fishery, Knight's Fee, Wards
Marriages, Escheats, Reliefs of Court, Court

Leet, View of Frank-pledge and Rectory,
with the Appurtenances, and the said Tithes,

Oblations, Obventions and Advowson, &c.

Q

And

Of Common Recoveries.

And hereupon the said *W. P.* and *T. L.* demand against the said *S. Tenant* by his Warranty, the said Manor, Tenements, &c. (as before) and Advowson, in Form aforesaid, &c. And whereupon they say (or declare) that they were seised of the said Manor, Tenements, Common, &c. Oblations and Obventions in their Demesne as of a Fee and Right, and also of the said Advowson as of a Fee and Right, in Time of Peace, in the Reign of our Sovereign Lord the present King, by taking the Profits thereof to the Value, &c. and in which, &c. And thereof they bring their Suit, &c.

* The Common Vouchee.

And the said *S. T. Tenant*, by his Warranty defends his Right, when, &c. and thereupon vouches over to Warranty * *Edmund Wilson*, who is personally present here in Court, and freely warrants to him the said Manor, Tenements, Common, &c. and Advowson, &c. And hereupon the said *W. P.* and *T. L.* demand against the said *E. W. Tenant* by his Warranty, the said Manor, Tenements, Commons, &c. and Advowson in the Manner aforesaid, &c. And whereupon they declare, that they were seised of the said Manor, Tenements, &c. Oblations and Obventions in their Demesne as of a Fee and Right, and also of the said Advowson as of a Fee and Right, in the Time of Peace, in the Time of our Sovereign Lord the present King, by taking the Profits thereof to the Value, &c. and wherein, &c. And thereof they bring their Suit, &c.

Plea.

And the said *E. W. Tenant* by his Warranty defends his Right, when, &c. and pleads, that the said *Hugh* did not disseise the

the said *W. P.* and *T. L.* of the said Manor,
 Tenements, &c. and Advowson, as the said
W. and *T.* above suppose by their said Writ
 and Declaration; And thereof he puts him-
 self upon the Country, &c.
 And the said *W.* and *T.* pray Leave to
 imparle thereto, and they have it, &c. and
 afterwards the said *W.* and *T.* personally come
 again into this Court this same Term, (or
 this very Term) and the said *E. W.* altho'
 solemnly required (or called) comes not
 again, but departs in Contempt of the Court,
 and maketh Default; Therefore it is adjudged, Judgment to
 that the said *W.* and *T.* recover their Seisin recover in
 against the said *S. J.* and *G. H.* of the said Value.
 Manor, Tenements, Common, &c. with the
 Appurtenances, and of the said Tithes, Obla-
 tions, Obventions and Advowson, and that
 the said *S. J.* and *G. H.* have of the Land of
 the said *S. T.* to the Value, &c. And further,
 that the said *S. T.* have of the Land of
 the said *E. W.* to the Value, &c. and the
 said *E. W.* in Mercy, &c. * And hereupon
 the said *W. P.* and *T. L.* pray his Majesty's
 Writ (or a Writ of our Lord the King) to be
 directed to the Sheriff of the said County, to
 cause full Seisin of the said Manor, Tene-
 ments, Commons, &c. with the Appurte-
 nances, and of the said Tithes, &c. to be
 delivered to them; and it is granted to them
 returnable herein, &c. At which Day the
 said *W.* and *T.* personally come into this
 Court (or come here into Court in their pro-
 per Persons) and the Sheriff (namely) *R. H.*
 Esq; now returneth, that by Virtue of the

* In a small Hand to the End.

Of Common Recoveries.

‘ said Writ to him directed on the Day of
 ‘ last past he caused to be delivered to
 ‘ the said *W. P.* and *T. L.* full Seisin of the
 ‘ said Manor, Tenements, Commons, &c. as
 ‘ by the said Writ he was commanded, &c.
 ‘ (or as he was commanded by the said Writ,
 ‘ &c.)

Note; If the Summons Roll and Recovery Roll are of the same Term, then instead of saying the Term of last past, you must say, this same Term.

Your Rolls being thus entred up, and Writs returned and filed, exemplify your Recovery in the following Manner, in a large Ingrossing or Text Hand, on a Skin of Parchment, with a 10 s. Stamp thereon.

The Form of an Exemplification of a Recovery.

‘ **G**EORGE the Second, &c. To all to
 ‘ whom these our present Letters shall
 ‘ come, Greeting. *Know ye*, that among the
 ‘ Pleas of Land inrolled at *Westminster* before
 ‘ Sir *John Willes*, Knight, and his Brethren our
 ‘ Justices of the Bench, of the Term of
 ‘ in the Year of our Reign, upon the 50
 ‘ and 51 Rolls, (*i. e.* the Recovery Rolls) it
 ‘ is thus contained, *to wit*, *Elsewhere*, (or
 ‘ *Heretofore*) as it appeareth of the Term of
 ‘ as on the Roll, and conclude as in a
 ‘ Recovery at Bar, All and singular, &c.’

As to the Teste of the Exemplification and Passing the same, you must observe the Direc-

tions before given concerning a Recovery at Bar; and to know when the *Ad quem Diem* must be, on the Folding up or Label of the Recovery, is before noted.

Note; No Warrant of Attorney is filed on a Writ of Entry at the Warrant of Attorney Office, as on a Writ of Covenant, but the same is left with the Prothonotary, and by him delivered over to the Clerk of the Warrants, according to a Rule for that Purpose; and as no Post-Fine is due on the Writ of Entry, you need not get it marked by the Cursitor.

Vide a Rule made 29 Car. 2. in Mills's Rules and Orders.

By Leave of the Court a *Caveat* may be entered with the three Prothonotaries and at the King's Silver Office, to prevent a Recovery or Fine passing without Notice being first given. And according to a Rule, *Easter 29 Car. 2.* Caveats and Orders for stopping Fines must be renewed every Term, and Copies thereof left with the Clerk of the King's Silver, (who's Fee is 3s. 4d. a Term) and in Default thereof all Caveats, tho' renewed, lose their Force and are void. See *Mills's Rules and Orders* 66.

A Bill of Costs concerning the Suffering of a Recovery.

Michaelmas Term.

		<i>l.</i>	<i>s.</i>	<i>d.</i>
A. Demandant.	} Extracting the Parcels from the Deeds —	0	3	4
B. Tenant.				
C. Vouchee.				
Drawing <i>Præcipe</i> for Writ of Entry and Copy.	} —	0	2	6
Writ and Fee.				
Drawing <i>Præcipe</i> at Bar and Copy.		0	2	6

Q 3

Entering

Of Common Recoveries.

	l.	s.	d.
Entering it on Remembrance. ———	0	2	6
Counting at Bar by Demandant } and Tenant. ———	0	6	8
Tenant's Attendance there. ———	0	6	8
Attending at <i>Westminster</i> thereon. ———	0	6	8
Alienation Office. ———	0	3	6
Paid the Office Fees. ———	0	6	8
Attending the Commissioners. ———	0	2	0
Returning and Inrolling Writ of } Entry. ———	0	2	0
Drawing the Award of the Sum- } mons and Copy, fol. 4. ———	9	5	4
Entering it on Roll. ———	0	4	0
Paid Prothonotary. ———	0	6	6
Writ of Summons, Duty, Seal, } Fee, &c. ———	0	11	1
Paid the Attorney General. ———	0	10	0
Attending him. ———	0	6	8
Drawing <i>Præcipe</i> for <i>Dedimus</i> and } Copy. ———	0	2	6
<i>Dedimus</i> and Fee. ———	1	12	4
Drawing Warrant of Attorney for } Vouchee. ———	0	2	8
Ingrossing it with <i>Præcipe</i> on Parch- } ment. ———	0	2	4
Paid the Commissioners. ———	0	13	4
Horse Hire, Journey and Expences.			
Term Fee for Demandant and Te- } nant. ———	0	13	4
Letters. ———	0	2	0
<i>Hilary Term.</i>			
Returning and Inrolling Writ of } Summons. ———	0	2	0
			Tenant's

	l.	s.	d.
Tenant's Appearing at Bar by At- torney. ——— ——— ——— }	0	6	8
Counting Recovery by all the Parties. ——— ——— ——— }	0	13	4
Paid Prothonotary, Secondary and Cryers. ——— ——— ——— }	0	7	0
Attending at <i>Westminster</i> thereon. —	0	6	8
<i>Præcipe</i> for <i>Mittimus</i> and Transcript. —	0	1	0
Paid for them. ——— ——— ———	0	13	6
Fee thereon. ——— ——— ———	0	6	8
Entering them on Roll. ——— ——— ———	0	6	0
Paid Prothonotary. ——— ——— ———	0	6	0
Drawing Recovery and Copy. ——— ——— ———	0	16	0
Entering it on Roll. ——— ——— ———	0	12	0
Paid Prothonotary. ——— ——— ———	0	14	6
Parchment and Duty for Exem- plification. ——— ——— ——— }	0	13	0
Exemplifying Recovery. ——— ——— ———	1	1	0
Seal and Box. ——— ——— ———	0	3	0
Writ of Seisin, Duty, Seal and Fee, &c. ——— ——— ——— }	0	11	1
Returning and Inrolling it. ——— ——— ———	0	2	0
Filing the Writs. ——— ——— ———	0	3	0
Term Fee for all the Parties. ——— ——— ———	1	6	8
Letters. ——— ——— ——— ———	0	2	0
Carriage of the Exemplification and Box. ——— ——— ——— }			

Here I shall end my Instructions for passing Recoveries thro' the several Offices, and proceed to the Entries of Recoveries themselves in the different Forms thereof.

*The Entry of a Recovery with a single
Voucher, suffered at the Bar.*

*Note; You
may search for
a Recovery of
an old Term
with the Clerk
of the War-
rants.*

Kent, to ' **C** D. Gent. in his proper Per-
son (or personally) demandeth
against *A. B.* Esq; 16 Messuages, 10 Gar-
dens, 100 Acres of Land, 20 Acres of Mea-
dow, 15 Acres of Pasture, 20 Acres of
Furze and Heath, and Common of Pasture
for all Manner of Cattle, and Common of
Turbary, with the Appurtenances, in *D.* as
his Right and Inheritance, and into which
(or wherein) the said *A.* hath not an Entry,
but after a Disseisin which *Hugh Hunt* there-
of (or thereon) unjustly and without Judg-
ment (or without any Judgment,) made to
the said *A.* within * 30 Years, &c. And
whereupon he declares, that he was seised of
the said Tenements and Commons, with the
Appurtenances, in his Demesne as of a Fee
and Right, in Time of † Peace in the Reign
of our Sovereign Lord the King that now is,
by taking the Profits (or || Esplees) thereof
to

* The limited Time for bringing the Action.

† Time of Peace is the Time of Law and Right, and
Time of War is the Time of violent Oppression, which
can't be resisted by the equal Course of Law, *Cum silent
leges inter Arma.* Co. Lit. 249.

|| Esplees or the full Profits of Land, as the Hay of
the Meadows, the Herbage of the Pasture, Corn of the
Arable, Rent and Services, &c. and of an Advowson,
the Taking of Tithes in Gross by the Parson; of Wood,
the Selling of Wood; of an Orchard, the Fruits growing
there; of a Mill, the Taking of Toll, &c. These and
such like Issues are termed Esplees, and the Demandant
must alledge in his Count, that he or his Ancestors took
the

to the * Value, &c. and § wherein, &c. And thereof he bringeth his Suit, † &c. And the said A. B. personally cometh and defendeth his Right, †† when, &c. and thereupon voucheth to Warranty *Edmund Wilson*, Tenant calls the Common Vouchee, who is personally present here in Court, and freely warranteth the said Tenements and Commons, with the Appurtenances, to him, || Who enters into Warranty. &c. and hereupon the said C. demandeth against the said *Edmund* Tenant by his Warranty, the said Tenements and Commons, with the Appurtenances, in Manner aforesaid, * &c. And whereupon he declares, that he was seised of the said Tenements and Commons, with the Appurtenances, in his Demesne, as of a Fee and Right, in Time of Peace in the Reign of our Sovereign Lord the King that now is, by taking the Profits thereof to the Value, &c. and wherein, &c. And thereof he bringeth his Suit, &c.

the Esplees, i. e. the Profits or Produce of the Thing in Demand, or otherwise the Pleading will not be good; for by the Demandant's having taken and received the Esplees, strongly implies that he or his Ancestors were actually possessed of the Premises in Dispute.

* To the Value of the Premises.

§ Here the Words of the Writ of Entry are understood, *to quit*, wherein the said A. hath not an Entry, &c.

† By this, &c. is understood that the Demandant hath good Proof of the Premises, when and where the Court will consider thereof.

†† When and in what Manner the Court will consider thereof.

|| Against all Men for ever.

* Here is understood, that the Demandant demands the Lands of the Vouchee in the same Manner as he had before demanded them of the Tenant, (namely) as his Right and Inheritance, &c.

And

His Plea.

And the said *Edmund Wilson*, Tenant by his own Warranty defendeth his Right, when, &c. and saith (or pleadeth,) that the said *Hugh Hunt* did not disseise the said C. of the said Tenements and Commons, with the Appurtenances, as the said C. doth by his said Writ and Declaration above suppose; And of this he putteth himself upon the Country, § &c.

Impar lance.

And the said C. thereupon craveth Leave to imparle, and he hath it, &c. and afterwards the said C. cometh again here into Court this same Term, (or, and afterwards in this very Term the said C. personally cometh again here into Court) and the said *Edmund*, altho' solemnly called, cometh not again, but departed in Contempt of the Court and maketh Default: Therefore it is adjudged, that the said C. do recover his Seisin against the said A. of the said Tenements and Commons with the Appurtenances, and that the said A. have of the Land of the said *Edmund*, to the Value, † &c. and the said *Edmund* in Mercy, &c. (or, and be the said

Departure in
Despite of the
Court.Judgment to
recover in Va-
lue.

§ By this, &c. the Common Vouchee (as it must be understood) submits the Matter contained in his Plea to be tried by the Country, and prays that the Demandant may do the like; but before Issue joined, the Demandant craves an Impar lance.

* By this, &c. it must be understood, that the Demandant hath an Impar lance granted according to his Prayer.

Note; After this the Demandant comes at the Day, but the Common Vouchee failing to come at that Day, he is thereupon said to depart in Despite of the Court.

† The Value of the Lands recovered by the Demandant against the Tenant, and by the Tenant against the Common Vouchee.

Edmund

‘ *Edmund* amerced, &c.) And hereupon the said Seisin award-
 ‘ *C.* prays a Writ of our Lord the King to be ed:
 ‘ directed to the Sheriff of the County aforesaid,
 ‘ to cause full Seisin of the said Tenements and
 ‘ Commons, with the Appurtenances, to be de-
 ‘ livered to him; and it is granted to him re-
 ‘ turnable — at which Day the said *C.* per- Return there-
 ‘ sonally cometh here into Court, and the She- of.
 ‘ riff (namely) *E. F.* Esq; now returneth, that
 ‘ he by Virtue of the said Writ to him directed
 ‘ on the Day of last past caused full
 ‘ Seisin of the said Tenements and Commons,
 ‘ with the Appurtenances, to be delivered to
 ‘ the said *C.* as by the said Writ he was com-
 ‘ manded, &c.’

If a Common Recovery be to pass at the Bar, and the Tenant is ready at the Bar, and voucheth *A.* to Warranty, for whom he is ready at Bar to appear for the Vouchee by his Warrant of Attorney: But it was holden, that this Appearance was meerly void, for in this Case the Vouchee must appear in Person, because without Summons; but where Summons issueth, and it is enter’d upon the Roll, there the Vouchee, at the Return, may appear in Person, or by Attorney, at his Election; and this was the Opinion of all the Justices and Prothonotaries. *1 Lev. 104.*

A Reco-

A Recovery with a double Voucher, suffered by the Parties in Person at the Bar.

Surry, to ' C. S. Gent. personally demandeth
 wit, ' C. against B. R. Gent. and W. H.
 Gent. four Messuages, two Dove-houses, six
 Gardens, 100 Acres of Land, 12 Acres of
 Meadow, 12 Acres of Pasture, 25 Acres of
 Wood, 200 Acres of Furze and Heath, a
 Liberty of Foldage, and a Sheep-Walk,
 with the Appurtenances in, &c. (naming the
 Towns) as his Right and Inheritance, and
 into which the said B. and W. have not an
 Entry, but after a Disseisin which Hugh
 Hunt thereon unjustly and without a Judg-
 ment made to the said B. and W. within 30
 Years, &c. And whereupon he declareth,
 that he was seised of the said Tenements,
 Liberty and Sheep-Walk, with the Appur-
 tenances, in his Demesne as of a Fee and
 Right, in Time of Peace, in the Reign of
 our Sovereign Lord the King that now is,
 by taking the Profits thereof to the Value,
 &c. and wherein, &c. And thereof he
 bringeth his Suit, &c.

Count against
 Tenants.

The Tenants
 vouch T. C.

And the said B. and W. personally come
 and defend their Right. when, &c. and
 thereupon vouch to Warranty T. C. Esq;
 who is personally present here in Court, and
 freely warranteth the said Tenements, Liber-
 ty and Sheep-Walk, with the Appurtenances,
 to them, &c. And hereupon the said C. S.
 demandeth against the said T. Tenant by
 his Warranty, the said Tenements, Liberty
 and Sheep-Walk, with the Appurtenances, in
 the

the Manner afore said, &c. And whereupon he declareth, that he was seised of the said Tenements and Commons, with the Appurtenances, in his Demesne as of a Fee and Right, in Time of Peace, in the Time of our Sovereign Lord the King that now is, by taking the Profits thereof to the Value, &c. and wherein, &c. And thereof he bringeth his Suit, &c.

And the said T. C. Tenant by his Warranty defendeth his Right, when, &c. And thereupon further voucheth to warranty Edmund Wilson, who is personally present here in Court, and freely warranteth the said Tenements, Liberty and Sheep-Walk, with the Appurtenances, to him, &c. and hereupon the said C. demandeth against the said Edmund Tenant by his Warranty, the said Tenements, Liberty and Sheep-Walk, with the Appurtenances, in the Manner afore said, &c. And whereupon he declareth, that

Who voucheth over the Common Vouchee.

he was seised of the said Tenements, Liberty and Sheep-Walk, with the Appurtenances, as of a Fee and Right, in Time of Peace, in the Reign of our Sovereign Lord the King that now is, by taking the Profits thereof to the Value, &c. and wherein, &c. And thereof he bringeth his Suit, &c.

Count against him.

And the said Edmund Tenant by his Warranty defendeth his Right, when, &c. and saith (or pleadeth,) that the said Hugh did not disseise the said C. of the said Tenements, Liberty and Sheep-Walk, with the Appurtenances, as the said C. doth by his said Writ and Declaration above suppose; And of this he putteth himself upon the Country, &c.

His Plea.

And

Imparlance.

Judgment to
recover in Va-
lue.Seisin award-
ed.

‘ And the said C. thereupon craveth Leave
 ‘ to imparle, and he hath it, &c. And after-
 ‘ wards in this same Term the said C. perso-
 ‘ nally cometh again here into Court, and the
 ‘ said *Edmund*, altho’ solemnly called, cometh
 ‘ not, but departed in Contempt of the Court,
 ‘ and maketh Default; Therefore it is *adjudged*,
 ‘ that the said C. doth recover his Seisin of
 ‘ the said Tenements, Liberty and Sheep-
 ‘ Walk, with the Appurtenances, against the
 ‘ said *B.* and *W.* and that the said *B.* and
 ‘ *W.* have of the Lands of the said *T.* to
 ‘ the Value, &c. and that the said *Thomas*
 ‘ have of the Land of the said *Edmund* to the
 ‘ Value, &c. and the said *Edmund* in Mercy,
 ‘ &c. And hereupon the said C. prays a Writ
 ‘ of our Sovereign Lord the King to be di-
 ‘ rected to the Sheriff of the said County, to
 ‘ cause full Seisin of the said Tenements, Li-
 ‘ berty and Sheep-Walk, with the Appurte-
 ‘ nances, to be delivered to him, and the
 ‘ same is granted to him returnable here forth-
 ‘ with, &c. Afterwards, (that is to say) on the
 ‘ 7th Day of *May* this same Term, the said
 ‘ C. personally cometh here into this Court,
 ‘ and the Sheriff (namely) *T. J. Esq.* now re-
 ‘ turneth, that he, by Virtue of the said Writ
 ‘ to him directed, did on the 5th Day of the
 ‘ same Month of *May* cause full Seisin of the
 ‘ said Tenements, Liberty and Sheep-Walk,
 ‘ with the Appurtenances, to be delivered to
 ‘ the said C. as by the said Writ he was com-
 ‘ manded, &c.

Note; *Mich. 12 Geo. 2.* the Lord Chancellor
 came to the Bar of the Court with the Purse
 and Mace, and suffered a Recovery as Vouchec.

Entry of a Recovery with treble Voucher.

Stafford, to J. H. Esq. in his proper Person
wit, J. demandeth against F. J. Gent:

four Acres of Meadow, with the Appurtenances, in, &c. (*naming the Towns*) as his Right and Inheritance, and into which the said F. hath not an Entry, but after a Disseisin, &c. And whereupon he declareth that he was seised of the said four Acres, with the Appurtenances, in his Demesne as of a Fee and Right, in Time of Peace, in the Time of our Lord the King that now is, by taking the Profits thereof to the Value, &c. And thereof he bringeth his Suit, &c.

Count against
Tenant.

And the said F. in his proper Person cometh and defendeth his Right, when, &c. and thereupon voucheth to warranty R. D. of H. the younger, Gent. who is present here in Court in his proper Person, and freely warranteth to him the said four Acres, with the Appurtenances, &c. And hereupon the said J. demandeth against the said R. Tenant by his Warranty, the said four Acres, with the Appurtenances, in the Manner aforesaid; And whereupon he declareth that he was seised of the said four Acres, with the Appurtenances, in his Demesne, &c. as before.

Who appears
and vouches
the first Vou-
chee R. D.
junior.

And the said R. Tenant by his own Warranty defendeth his Right, when, &c. and thereupon further voucheth to Warranty R. D. of H. Esq. who is also present here in Court in his proper Person, and freely warranteth to him the said four Acres, with the Appurtenances, &c. And hereupon the said J. demandeth against the said R. D. Esq. Te-

Count against
first Vouchee,

who vouches
the second
Vouchee R.
D. Esq;

nant

Of Common Recoveries.

Count against
2d Vouchee,

who vouches
over the Com-
mon Vouchee.

Count against
him.

Common
Vouchee's
Plea.

Impar lance.

Judgment.

' nant by his Warranty the said four Acres,
' with the Appurtenances, in the Manner afore-
' said, &c. *And whereupon* he declareth that
' he was seised of the said four Acres, &c. *as*
' *before.*

' *And the said R. D. Esq;* Tenant by his
' Warranty defendeth his Right, when, &c.
' and thereupon further voucheth to Warranty
' *Edmund Wilson*, who also is present here in
' Court in his proper Person, and freely war-
' ranteth the said four Acres, with the Appur-
' tenances, to him, &c. And hereupon the
' said J. demandeth against the said *Edmund*
' Tenant by his Warranty, the said four Acres
' with the Appurtenances, in the Manner afore-
' said, &c. *And whereupon* he declareth, that
' he was seised of the said four Acres with the
' Appurtenances, in his Demesne, &c. *as be-*
' *fore.*

' *And the said Edmund* Tenant by his own
' Warranty defendeth his Right, when, &c.
' and saith, that the said *Hugh Hunt* did not
' disseise the said J. of the said four Acres
' with the Appurtenances, as the said J. by
' his Writ and Declaration aforesaid doth above
' suppose; And thereof he putteth himself
' upon the Country, &c.

' *And the said J.* thereupon craveth Leave
' to imparle, and he hath it, &c. And after-
' wards the said J. cometh again here into
' Court this same Term in his proper Person,
' and the said *Edmund*, altho' solemnly called,
' cometh not, but departed in Contempt of
' the Court, and maketh Default; *Therefore* it
' is adjudged, that the said J. do recover his
' Seisin against the said *F.* of the said four
' Acres with the Appurtenances, and that the

' said

‘ said *F.* do have of the Land of the said *R.*
 ‘ *D. Gent.* to the Value, &c. And further,
 ‘ that the said *R.* do have of the Land of the
 ‘ said *R. D. Esq;* to the Value, &c. And fur-
 ‘ ther, that the same *R.* do have of the Land
 ‘ of the said *Edmund* to the Value, &c. and
 ‘ the said *Edmund* in Mercy, &c. And here-
 ‘ upon the said *J.* prayeth a Writ of our Lord
 ‘ the King to be directed to the Sheriff of the
 ‘ County aforesaid, to cause full Seisin of the
 ‘ said four Acres with the Appurtenances to
 ‘ be delivered to him; and the same is granted
 ‘ to him returnable here forthwith: After-
 ‘ wards, (that is to say) on the 12th Day of
 ‘ *February* in this same Term, the said *J.*
 ‘ cometh here into this Court in his proper
 ‘ Person, and the Sheriff, (*to wit*) *O. D. Esq;*
 ‘ now returneth, that he by Virtue of the said
 ‘ Writ to him directed did on the 8th Day
 ‘ of the same Month of *February* cause full
 ‘ Seisin of the said four Acres with the Ap-
 ‘ purtenances to be delivered to the said *J.*
 ‘ as by the said Writ he was commanded, &c.’

Note; A Recovery suffered of Lands lying
 in a County Palatine, in the Common Pleas at
Westminster, is void. 1 *Saund.* 74.

*The Entry of a Recovery with a quadruple
 Voucher.*

Middlesex, to ‘ *H. L. Esq;* and *S. G. Gent.*
 ‘ *to wit*, ‘ *H.* personally demand against
 ‘ *M. G. Gent.* the Manor of *D.* with the Ap-
 ‘ purtenances, and also 50 Messuages, 20 Gar-
 ‘ dens, 1000 Acres of Land, 300 Acres of
 ‘ R Meadow,

Of Common Recoveries.

‘ Meadow, 50 Acres of Pasture, 50 Acres of
 ‘ Wood, 50 Acres of Furze and Heath, 300
 ‘ Acres of Marsh-land, and a Free Warren
 ‘ with the Appurtenances, in, &c. (*naming the*
 ‘ *Towns*) and the Advowson of the Churches
 ‘ of *R.* and *H.* as their Right and Inheritance,
 ‘ and into which the said *M. G.* hath not an
 ‘ Entry, &c. (*as before*) within 30 Years, &c.
 ‘ And whereupon they declare, that they were
 ‘ seised of the said Manor, Tenements and
 ‘ Free Warren, with the Appurtenances, in
 ‘ their Demesne as of a Fee and Right, and
 ‘ of the said Advowson as of a Fee and Right,
 ‘ in the Time of Peace, &c.

‘ And the said *M. G.* in his proper Person
 ‘ cometh and defendeth his Right, when, &c.
 ‘ and thereupon voucheth to Warranty *T. C.*
 ‘ Gent. who is personally present here in Court,
 ‘ and freely warranteth the said Manor, Tené-
 ‘ ments and Free Warren, with the Appurte-
 ‘ nances and Advowson, to him, &c. And
 ‘ hereupon the said *H.* and *S.* demand against
 ‘ the said *T. Tenant*, &c. (*as in the last Pre-*
 ‘ *cedent.*)

‘ And the said *T. Tenant* by his Warranty
 ‘ defendeth his Right, when, &c. and there-
 ‘ upon further voucheth to Warranty *J. B.*
 ‘ Esq; who is personally present, &c. (*as*
 ‘ *before.*)

‘ And the said *J. B. Tenant* by his Warran-
 ‘ ty defendeth his Right, when, &c. and
 ‘ thereupon further voucheth to Warranty *R.*
 ‘ *L. Knight*, who is likewise personally pre-
 ‘ sent here in Court, and freely Warranteth
 ‘ the said Manor, &c. (*as before.*)

‘ And the said *R. L. Tenant* by his Warran-
 ‘ ty defendeth his Right, when, &c. and
 ‘ further

‘ further thereupon voucheth to Warranty *Edmund Wilson*, who is likewise present here in Court in his proper Person, and freely warranteth the said Manor, Tenements and Free Warren, with the Appurtenances and the said Advowson, to him, &c. And hereupon they the said *H.* and *S.* demand against the said *Edmund* Tenant by his own Warranty, the said Manor, Tenements and Free Warren, with the Appurtenances, and the said Advowson, in the Manner aforesaid, and whereupon they declare that they were seised of the said Manor, &c. (as before.)

‘ And the said *Edmund* Tenant by his Warranty defendeth his Right, when, &c. and saith (or pleadeth,) that the said *Hugh Hunt* did not disseise the said *H.* and *S.* of the said Manor, Tenements and Free Warren, with the Appurtenances, and of the Advowson aforesaid, as the said *H.* and *S.* do by their said Writ and Declaration above suppose; And of this he putteth himself upon the Country, &c.

‘ And the said *H.* and *S.* thereupon crave Leave to imparle, and they have it, &c. And afterwards in this same Term the said *H.* and *S.* personally come again here into Court, and the said *Edmund*, altho’ solemnly called, cometh not, but departed in Contempt of the Court, and maketh Default; Therefore it is adjudged, that the said *H.* and *S.* recover their Seisin against the said *M. G.* of the said Manor, Tenements and Free Warren, with the Appurtenances, and of the said Advowson; and that the said *M. G.* have of the Land of the said *T. C.* to the Value, &c. And further, that the said *T. C.*

Of Common Recoveries.

‘ have of the Land of the said *J. B.* to the
 ‘ Value, &c. And further, that the said *J.*
 ‘ *B.* have of the Land of the said *R. L.* to the
 ‘ Value, &c. And that the said *R. L.* do
 ‘ have over of the Land of the said *Edmund*
 ‘ to the Value, &c. And the said *Edmund*
 ‘ in Mercy, &c. (or, and be the said *Edmund*
 ‘ amerced, &c.) And hereupon the said *H.*
 ‘ and *S.* pray a Writ of our Sovereign Lord
 ‘ the King to be directed to the Sheriff of the
 ‘ said County, to cause full Seisin of the said
 ‘ Manor, Tenements and Free Warren, with
 ‘ the Appurtenances, and of the said Advowson,
 ‘ to be delivered to them; and the same is grant-
 ‘ ed to them, returnable here forthwith, &c.
 ‘ Afterwards, (that is to say) on the 12th Day
 ‘ of *February* in this same Term, the said *H.*
 ‘ and *S.* personally come here into this Court,
 ‘ and the Sheriff (namely) *T. P.* Baronet, now
 ‘ returneth, that he by Virtue of the said Writ
 ‘ to him directed did on the 7th Day of the
 ‘ same Month of *February* cause full Seisin
 ‘ of the said Manor, Tenements and Free
 ‘ Warren, with the Appurtenances, and of
 ‘ the said Advowson, to be delivered to the
 ‘ said *H.* and *S.* as by the said Writ he was
 ‘ commanded, &c.’

Note; See the
 Case of Ram
 and Thacker
 in B. R. where
 an Act of Par-
 liament shall
 have the Ef-
 fect of a Com-
 mon Recove-
 ry. Comyns
 50.

*How to mention the Parcels when a Reco-
 very is of two intire Messuages, &c.
 and a Moiety of other Parcels.*

M. to wit. ‘ *J. C.* Esq; and *E. C.* Gent. per-
 ‘ *J.* sonally demand against *A. E.*
 ‘ two Messuages, two Gardens, 10 Acres of
 ‘ Land, 10 Acres of Meadow, and five Acres
 ‘ of

‘ of Pasture, with the Appurtenances, in *B.*
 ‘ also a Moiety of a Messuage, four Gardens,
 ‘ 15 Acres of Land, 30 Acres of Meadow,
 ‘ 10 Acres of Pasture, and 20 Acres of Furze
 ‘ and Heath, with the Appurtenances in *S.* as
 ‘ their Right and Inheritance, and into which
 ‘ the said *A.* hath not an Entry, &c. And
 ‘ whereupon they declare that they were seised
 ‘ of the said Tenements and Moiety, with the
 ‘ Appurtenances, in their Demesne, &c.’ (as
 in a Recovery with single Voucher, or as the Case
 is, only observe to mention the Parcels throughout
 as last above, i. e. the said Tenements and Moiety.)

Various Forms of Demands.

M. to wit, ‘ *A.* *B.* personally demandeth
 ‘ against *C. D.* two Mes-
 ‘ suages, 10 Acres of Land, 20 Acres of
 ‘ Meadow, 10 Acres of Pasture, a Rent of
 ‘ 10s. and Common of Pasture for all Cattle,
 ‘ with the Appurtenances, in *B.* &c. And
 ‘ whereupon he declareth, that he was seised
 ‘ of the said Tenements, Rent and Common,
 ‘ with the Appurtenances, in his Demesne as
 ‘ of a Fee and Right, &c.’

*The following Form will serve for an Ex-
 ample of placing the Parcels.*

‘ *C. D.* demands against *E. F.* the Castle
 ‘ and Borough of *O.* with the Appurte-
 ‘ nances, and the Manor of *O.* with the Ap-
 ‘ purtenances, and the Park of *L.* with the
 ‘ Appurtenances, and four Messuages, two
 ‘ Shops, two Tofts, three Mills, six Dove-
 R 3 ‘ houses,

Of Common Recoveries.

' houses, four * Gardens, 100 Acres of Land,
 ' 100 Acres of Meadow, 50 Acres of Pasture,
 ' 20 Acres of Wood, 100 Acres of Furze and
 ' Heath, 60 Acres of Moor, 50 Acres of
 ' Marsh, 50 Acres of Elder-Wood, 50 Acres
 ' of Rushy-Ground, six Acres of Land co-
 ' vered with Water, a Rent of 6*l.* 2*s.* 6*d.*
 ' and a Rent of a Pair of Gold Spurs, 12 Ca-
 ' pons, four Cocks, four Hens, 10 Pounds of
 ' Pepper, Common of Pasture for all Manner
 ' of Cattle, View of Frank-pledge, a Free
 ' Warren, a Free Fishery, a Liberty of Fol-
 ' dage, and also Fairs and Markets, Toll,
 ' Stallage and Picage, Goods and Chattels of
 ' Felons, Fugitives, Outlaws, and of Persons
 ' put in Exigent, Deodands, Chattels of Waifs
 ' and Estrays, with the Appurtenances, in *A.*
 ' *B.* and *C.* also the Rectories of *R.* and *S.*
 ' with the Appurtenances, and all and all
 ' Manner of Tithes belonging and appertain-
 ' ing thereto, and also the Advowson of the
 ' Churches of *P.* and *D.* and the Advowson
 ' of the Vicarage of the Church of *D.* as his
 ' Right, &c. and in which, &c. And where-
 ' upon he declareth, that he was seised of the
 ' said Castle, Borough, Manor, Park, Tene-
 ' ments, Rents, Common, View of Frank-
 ' pledge, Free Warren, Free Fishery, Liberty,
 ' Foldage, Fairs, Markets, Toll, Stallage, Pi-
 ' cage, Goods and Chattels of Felons, Fugi-
 ' tives, Outlaws, and Persons put in Exigent,
 ' Deodands, Chattels of Waifs and Estrays,
 ' Rectories and Tithes, with the Appurte-
 ' nances, in his Demesne as of a Fee and

* Note; The Word *Gardinum* is used both for Garden
 and Orchard in Real Actions, and not *Pomarium*.

1

' Right,

‘ Right, and of the said Advowsons as of a
‘ Fee and Right, in the Time of Peace, &c.’

Devon. to wit. ‘ **A.** B. demands against C. D. the
‘ Hundred of A. with the Appurtenances, and the Manors of A. and C.
‘ with the Appurtenances, and also the Custody of the Gaol of the said County, with
‘ the Appurtenances; also 100 Messuages, &c.
‘ 50 Acres of Furze and Heath, a Rent of
‘ 10*l.* and View of Frank-pledge, with the
‘ Appurtenances, in A. and B. and the Advowson of the Church of B. as his Right,
‘ &c. And whereupon he declareth, that he
‘ was seised of the said Hundred, Manors,
‘ Custody of the Gaol, Tenements, Rent and
‘ View of Frank-pledge, with the Appurtenances, in his Demesne as of a Fee and
‘ Right, and of the said Advowson as of a
‘ Fee and Right, in Time of Peace, &c. (as
‘ before.)’

To wit, ‘ **A.** B. demands against C. D. two
‘ Passages over the River Thames,
‘ and a Moiety of the Manor of D. with the
‘ Appurtenances, &c. Whereupon he declares
‘ that he was seised of the said Passages and
‘ Moiety, with the Appurtenances, in his Demesne, &c.’

‘ **A.** B. demands against C. D. the Manor
‘ of D. with the Appurtenances, also
‘ four Messuages, &c. and a Rent of 10*l.*
‘ with the Appurtenances, in A. (except one
‘ Messuage, two Gardens, &c. in A.) as his
‘ Right, &c. that he was seised of the said
‘ Manor,

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‘ Manor, Tenements and Rent, with the Appurtenances, (except as aforesaid.)’

To wit, ‘ **C**. J. demands, &c. one Messuage, with the Appurtenances, in D. &c. And whereupon he saith, that he was seised of the said * Messuage, with the Appurtenances, in his Demesne, &c.’

To wit, ‘ **T**. W. demands, &c. an Acre of Land, with the Appurtenances, in B. And whereupon, &c. that he was seised of the said † Acre of Land, with the Appurtenances, in his Demesne, &c.’

To wit, ‘ **C**. T. demands, &c. a Moiety of the Advowson of the Church of C. &c.’

A Recovery of a Manor, Messuages, &c. where the Tenants as to the third Part of the Premises vouch T. J. as to a Moiety another Person A. M. and as to the Residue vouch to Warranty another Person G. B.

M to wit, ‘ **W**. S. J. H. and G. P. by— their Attorney demand against R. W. J. G. and J. B. the Manor of N. with the Appurtenances, and eight Messuages, 10 Gardens, 100 Acres of Land, &c. 30 Acres of Wood, 30 Acres of Furze

* If two Messuages are demanded, then you say Tenements.

† If two Acres are demanded, then you say Tenements.

{ and

and Heath, and a Rent of 30s. with the Appurtenances, in *B. &c.* as their Right, *&c.* and into which the said *R. J. G.* and *J. B.* have not an Entry, *&c.* And whereupon they say that they were seised of the said Manor, Tenements and Rent, with the Appurtenances, in their Demesne, *&c.* (*as before.*)

And the said *R. J. G.* and *J. B.* personally come and defend their Right, when, *&c.* and as to the third Part of the said Manor, Tenements and Rent, with the Appurtenances, they thereupon vouch to Warranty *T. J. Esq;* who is personally present here in Court, and freely warranteth the said third Part, with the Appurtenances, to them, *&c.* And hereupon the said *W. J. A.* and *G.* demand against the said *T.* Tenant by his Warranty, the said third Part, with the Appurtenances, in the Manner aforesaid, *&c.* And whereupon they declare, that they were seised of the said third Part, with the Appurtenances, in their Demesne, *&c.* And thereof they bring their Suit, *&c.* And as to a Moiety, Residue of the said Manor, Tenements and Rent, with the Appurtenances, the said *R. J. G.* and *J. B.* thereupon vouch to Warranty *A. M. Gent.* who is personally present here in Court, and freely warranteth the said Moiety, with the Appurtenances, to them, *&c.* And hereupon the said *W. J. A.* and *G.* demand against the said *A.* Tenant by his Warranty, the said Moiety, with the Appurtenances, in the Manner aforesaid, *&c.* And whereupon they declare, that they were seised of the said Moiety, with the Appurtenances, *&c.* And thereof they bring their Suit,

Of Common Recoveries.

‘ Suit, &c. And as to the whole Residue of
 ‘ the said Manor, Tenements and Rent, with
 ‘ the Appurtenances, the said R. J. G. and
 ‘ J. B. thereupon call to Warranty G. B. who
 ‘ is personally present here in Court, and freely
 ‘ warranteth the said Residue, with the Ap-
 ‘ purtenances, to them, &c. And hereupon
 ‘ the said W. J. A. and G. P. demand against
 ‘ the said G. B. Tenant by his Warranty, the
 ‘ said Residue, with the Appurtenances, in the
 ‘ Manor aforesaid, &c. And whereupon they
 ‘ declare, that they were seised of the said Re-
 ‘ sidue, with the Appurtenances, &c. And
 ‘ thereof they bring their Suit, &c.

‘ And the said T. A. and G. severally Te-
 ‘ nants by their several Warranties defend
 ‘ their Right when, &c. And the said T. as
 ‘ to the said third Part, with the Appurte-
 ‘ nances against him demanded, he thereupon
 ‘ further voucheth to Warranty * *Edmund Wil-*
 ‘ *son* who is personally present here in Court,
 ‘ and freely warranteth the said third Part,
 ‘ with the Appurtenances to him, &c. And
 ‘ the said A. as to the said Moiety, with the
 ‘ Appurtenances against him demanded, he
 ‘ thereupon further voucheth to Warranty the
 ‘ said *Edmund*, who is personally present here
 ‘ in Court, and freely warranteth the said
 ‘ Moiety, with the Appurtenances, to him,
 ‘ &c. And the said T. as to the said Residue,
 ‘ with the Appurtenances, against him de-
 ‘ manded, he thereupon further voucheth to
 ‘ Warranty the said *Edmund* who is personally
 ‘ present here in Court, and freely warranteth
 ‘ the said Residue, with the Appurtenances, to
 ‘ him, &c. And hereupon the said W. J. A.

* The Common Vouchee.

and G. P. demand against the said *Edmund* Tenant by his Warranty, the whole of the said Manor, Tenements and Rent, with the Appurtenances; and whereupon they declare that they were seised of the said Manor, Tenements and Rent, with the Appurtenances, in their Demesne as of a Fee and Right, in Time of Peace, &c. And thereupon they bring their Suit, &c.

And the said *Edmund* Tenant by his Warranty defendeth his Right, when, &c. and saith, that the said *H. H.* did not disseise the said *W. J. A.* and *G. P.* of the said Manor, Tenements and Rent, with the Appurtenances, as the said *W. J. A.* and *G. P.* do by their said Writ and Declaration above suppose; And of this he putteth himself upon the Country, &c.

And the said *W. J. A.* and *G. P.* thereupon crave Leave to imparle, and they have it, &c. And afterwards in this same Term the said *W. J. A.* and *G. P.* come again here into Court by their said Attorney; and the said *Edmund*, altho' solemnly called, cometh not, but departed in Contempt of the Court, and maketh Default; Therefore it is adjudged that the said *W. J. A.* and *G. P.* recover their Seisin of the said Manor, Tenements and Rent, with the Appurtenances, against the said *R. J. G.* and *J. B.* and that the said *R. J. G.* and *J. B.* have of the Lands of the said *T.* to the Value of the said third Part above against him demanded, &c. And that the said *T.* do have over of the Land of the said *Edmund* to the Value, &c. And that the said *R. J. G.* and *J. B.* have of the Lands of the said *A.* to the Value of the said Moiety above

Of Common Recoveries.

' above against him demanded, &c. And that
 ' the said *A.* do have over of the Land of the
 ' said *Edmund* to the Value, &c. And also
 ' that the said *R. J. G.* and *J. B.* have of the
 ' Land of the said *G. B.* to the Value of the
 ' said Residue above demanded against him,
 ' &c. And that the said *G. B.* do have over
 ' of the Land of the said *Edmund* to the Va-
 ' lue, &c. And the said *Edmund*, in Mercy,
 ' &c. And hereupon the said *W. J. A.* and *G.*
 ' *P.* pray his Majesty's Writ to be directed
 ' to the Sheriff of the same County, to cause
 ' full Seisin of the said Manor, Tenements,
 ' and Rent, with the Appurtenances, to be de-
 ' livered to them; and the same is granted to
 ' them, returnable here in three Weeks from
 ' the Day of the *Holy Trinity*, &c. At which
 ' Day the said *W. J. A.* and *G. P.* come here
 ' into this Court by their said Attorney, and
 ' the Sheriff (namely) *C. D. Esq;* now return-
 ' eth, That by Virtue of the said Writ to him
 ' directed on the eighth Day of *June* last past
 ' he caused to be delivered to the said *W. J. A.*
 ' and *G. P.* full Seisin of the said Manor, Te-
 ' nements and Rent, with the Appurtenances,
 ' as he was commanded by the said Writ,
 ' &c.

A Common

A Common Recovery where the Demandant appears in Person, and the Tenant by Attorney, and vouches several Persons for several Lands in several Towns, who appear by Summons.

Surry, to **J** J. Esq; in his proper Person, wit, **J.** demands against **T. H.** Gentleman, three Messuages, three Gardens, 50 Acres of Land, 40 Acres of Meadow, and 60 Acres of Marsh Land, with the Appurtenances in **T.** and **C.** as his Right and Inheritance, and in which the said **T.** hath not an Entry but after a Disseisin, which **H. H.** unjustly and without a Judgment made thereof to the said **T.** within 30 Years, &c. And whereupon he declareth, That he was seised of the said Tenements, with the Appurtenances, in his Demesne as of a Fee and Right, in Time of Peace, in the Reign of our Sovereign Lord the present King, by taking the Profits thereof to the Value, &c. and into which, &c. And thereof he bringeth his Suit, &c.

And the said **T.** by **A. B.** his Attorney Tenant by Attorney appeareth, and as to two Messuages, two Gardens, 30 Acres of Land, 20 Acres of Meadow, and 40 Acres of Marsh Land in **S.** aforesaid, Parcel of the said Tenements above demanded, thereupon he voucheth to warranty **G.** and vouches several Persons for several Lands, **T.** and as to one Messuage, one Garden, 20 Acres of Land, 20 Acres of Meadow, and 20 Acres of Marsh Land, with the Appurtenances, Residue of the said Tenements above

Summons returned.

The Demandant in Person, and the Tenant by Attorney, appear at the Return of the Summons.

Vouchers by Attorney appear.

One vouches one Parcel.

The other vouches the other Parcel.

‘ above demanded, the said *T.* thereupon
 ‘ voucheth to Warranty *C. S.* and *E.* his Wife;
 ‘ let him have them here (*Return of the*
 ‘ *Summons*) respectively summoned in the said
 ‘ County by the Assistance of the Court, &c.
 ‘ The same Day is here given to the said
 ‘ Parties, &c. And now at this Day (namely)
 ‘ on (*Return of the Summons*) as well the
 ‘ said *J.* cometh here in his proper Person as
 ‘ the said *T.* by his said Attorney; and the
 ‘ said *G.* being summoned, &c. by *J. B.* his
 ‘ Attorney, and the said *C.* and *E.* being also
 ‘ summoned, &c. by *H. M.* their Attorney,
 ‘ come likewise; and the said *G.* freely war-
 ‘ ranteth the said Tenements, with the Appur-
 ‘ tenances, in *S.* aforesaid, Parcel of the said
 ‘ Tenements, with the Appurtenances above
 ‘ demanded; whereupon the said *T.* above
 ‘ voucheth him to warrant to him, &c. And
 ‘ hereupon the said *J.* demandeth against the
 ‘ said *G.* Tenant by his Warranty, the same
 ‘ Tenements, with the Appurtenances, in *S.*
 ‘ aforesaid, in the Manner aforesaid, &c. And
 ‘ whereupon he declareth, That he was seised
 ‘ of the said Tenements, with the Appurte-
 ‘ nances, in *S.* aforesaid, in his Demesne as of
 ‘ a Fee and Right, &c. And thereof he bring-
 ‘ eth his Suit, &c.
 ‘ And the said *C.* and *E.* freely warrant the
 ‘ said Tenements with the Appurtenances in
 ‘ *G.* aforesaid, Residue of the said Tenements
 ‘ with the Appurtenances demanded; where-
 ‘ upon the said *T.* above voucheth him to
 ‘ warrant to him, &c. And hereupon the said
 ‘ *J.* demandeth against the said *C.* and *E.* Te-
 ‘ nants by their Warranty, the said Tenements
 ‘ with the Appurtenances in *G.* aforesaid, in
 ‘ the

the Manner aforesaid, &c. And whereupon he declareth, that he was seised of the said Tenements with the Appurtenances in G. aforesaid, in his Demesne as of a Fee and Right, in the Time, &c. And thereof he bringeth his Suit, &c.

And the said G. Tenant by his Warranty of the said Tenements with the Appurtenances in S. aforesaid, Parcel of the said Tenements with the Appurtenances above demanded, whereupon he is vouched to warrant the same, defendeth his Right, when, &c. And thereupon further voucheth to Warranty *Edmund Wilson*, who is personally present here in Court, and freely warranteth to him the said Tenements with the Appurtenances in S. aforesaid, &c. And hereupon the said J. demandeth against the said *Edmund* Tenant by his Warranty, the said Tenements with the Appurtenances in S. aforesaid, in the Manner aforesaid, &c. And whereupon he declareth, that he was seised of the said Tenements with the Appurtenances in S. aforesaid, in his Demesne as of a Fee, &c. And thereof he bringeth his Suit, &c.

One Vouchee vouches over for one Parcel the Common Vouchee.

And the said C. and E. Tenants by their Warranty of the said Tenements with the Appurtenances in G. aforesaid, Residue of the said Tenements above demanded, whereof they are above vouched to Warranty, defend their Right, when, &c. And thereupon further likewise vouch to Warranty the said *Edmund Wilson*, who is also personally present here in Court, and freely warranteth to them the said Tenements with the Appurtenances in G. aforesaid, &c. And hereupon the said J. demandeth against the said

The other Vouches do the like.

Edmund

Of Common Recoveries.

Plea of Com-
mon Vouchee.

Imparlance.

Common
Vouchee
makes De-
fault.

‘ *Edmund* Tenant by his Warranty, the said
‘ Tenements with the Appurtenances in *G.*
‘ aforesaid, in the Manner aforesaid, &c. And
‘ whereupon he declareth, that he was seised
‘ of the said Tenements with the Appurte-
‘ nances in *G.* aforesaid, in his Demesne, &c.
‘ And thereupon he bringeth his Suit, &c.

‘ And the said *Edmund* Tenant by his War-
‘ ranty of the whole of the said Tenements,
‘ with the Appurtenances, defendeth his Right,
‘ when, &c. and saith, that the said *Hugh* did
‘ not disseise the said *J.* of the said Tenements
‘ with the Appurtenances, as the said *J.* by
‘ his said Writ and Declaration doth above sup-
‘ pose; And thereof he putteth himself upon
‘ the Country, &c.

‘ And the said *J.* thereupon craveth Leave
‘ to imparle, and he hath it, &c. And after-
‘ wards the said *J.* cometh again here into
‘ Court this same Term, in his proper Person,
‘ and the said *Edmund*, although solemnly re-
‘ quired, cometh not again, but departed in
‘ Contempt of the Court, and maketh De-
‘ fault; Therefore it is adjudged, that the said
‘ *J.* do recover his Seisin against the said *T.*
‘ of the whole of the said Tenements with the
‘ Appurtenances, And that the said *T.* have of
‘ the Lands of the said *G.* to the Value of the
‘ said Tenements, with the Appurtenances, in
‘ *S.* aforesaid above against him as Tenant by
‘ his Warranty demanded, And that the said
‘ *G.* have of the Lands of the said *Edmund* to
‘ the Value, &c. And that the said *T.* have
‘ of the Land of the said *C.* and *E.* to the Va-
‘ lue of the said Tenements, with the Appur-
‘ tenances, in *G.* aforesaid above against them
‘ as Tenants by their Warranty demanded,
‘ And

and that the said C. and E. have of the Land of the said *Edmund* to the Value, &c. and that the said *Edmund* be in Mercy, &c. And thereupon the said J. prays a Writ of our Lord the King to be directed to the Sheriff of the County aforesaid, to cause full Seisin of the whole of the said Tenements, with the Appurtenances, to be delivered to him; and it is granted to him returnable forthwith, &c. Afterwards (that is to say) on the 28th Day of *November* in this same Term, the said J. personally cometh here into this Court, and the Sheriff (*to wit*) T. D. Esq; now returneth, that by Virtue of the said Writ to him directed, he did on the 25th Day of the same Month of *November* cause full Seisin of the whole of the said Tenements, with the Appurtenances, to be delivered to the said J. as by the said Writ he was commanded, &c.

Seisin returnable forthwith.

Demandant comes into Court the last Day of the Term.

Seisin delivered three Days before.

Note; If a Mortgagee suffer a Common Recovery, this will not bind the Morgagor, unless he be a Party to the Recovery.

A Common Recovery of a Manor, &c. where the Tenant vouches two several Persons, who each vouch a Moiety; being a Recovery with double Voucher as to one Moiety, and with treble Voucher as to the other.

K. to wit, 'C. J. and T. L. by C. S. their Attorney, demand against R. T. the Manor of D. with the Appurtenances, and 10 Messuages, &c. a Free Fishery,

Of Common Recoveries.

' shery, and Common of Pasture for all Man-
 ' ner of Cattle, with the Appurtenances, in
 ' D. as their Right and Inheritance, and into
 ' which the said R. hath not an Entry, but
 ' after a Disseisin which *Hugh Hunt* thereon
 ' unjustly and without a Judgment made to
 ' the said R. within 30 Years, &c. And
 ' whereupon they declare, that they were sei-
 ' sed of the said Manor, Tenements, Free
 ' Fishery, and Common of Pasture, with the
 ' Appurtenances, in their Demesne as of a
 ' Fee and Right, in the Time of Peace, in
 ' the Reign of our Sovereign Lord the King
 ' that now is, by taking the Profits thereof to
 ' the Value, &c. and wherein, &c. And
 ' thereof they bring their Suit, &c.

' And the said R. by *A. B.* his Attorney,
 ' cometh and defendeth his Right, when, &c.
 ' And as to a Moiety of the said Manor, Te-
 ' nements, Free Fishery, and Common of Pa-
 ' sture, with the Appurtenances, he thereup-
 ' on voucheth to Warranty *G. B.* who is pre-
 ' sent here in Court in his proper Person, and
 ' freely warranteth the said Moiety with the
 ' Appurtenances, to him, &c. And as to the
 ' other Moiety, Residue of the said Manor,
 ' Tenements, Free Fishery, and Common of
 ' Pasture, with the Appurtenances, the said
 ' R. thereupon voucheth to Warranty *T. P.*
 ' who is also present here in Court in his pro-
 ' per Person, and freely warranteth the said
 ' Moiety last mentioned, with the Appurte-
 ' nances, to him, &c. And hereupon the
 ' said C. and *T. L.* demand against the said *G.*
 ' Tenant by his Warranty, the said Moiety
 ' with the Appurtenances, whereof the said *G.*
 ' is above vouched to Warranty, &c. And
 ' hereupon

hereupon the said C. and T. L. demand
against the said T. P. Tenant by his War-
ranty the said Moiety with the Appurte-
nances, whereof the said T. P. is above
vouched to Warranty, in the Manner afore-
said; And whereupon they declare, that
they were seised of the whole of the said
Manor, Tenements, Free Fishery, and Com-
mon of Pasture, with the Appurtenances, in
their Demesne as of a Fee and Right, in
Time of Peace, in Time of our Sovereign
Lord the King that now is, by taking the
Profits thereof to the Value, &c. and where-
in, &c. And thereof they bring their Suit,
&c.

And the said G. and T. P. severally Te-
nants by their several Warranties come and
defend their Right, when, &c. And the said
G. as to the said Moiety with the Appur-
tenances above demanded against him, there-
upon further voucheth to Warranty T. B.
Son of the said G. who is personally present
here in Court, and freely warranteth the
same Moiety with the Appurtenances to
him, &c. And hereupon the said G. and
T. L. demand against the said T. B. Tenant
by his Warranty the said Moiety with the
Appurtenances, whereof he is above vouch-
ed to Warranty, in the Manner aforesaid;
And whereupon they declare, that they were
seised as well of the said Moiety with the
Appurtenances, as also of the other Moiety
of the said Manor, Tenements, Free Fishe-
ry, and Common, with the Appurtenances,
in their Demesne, &c. And thereof they
bring their Suit, &c.

Of Common Recoveries.

The Common
Vouchee.

‘ And the said *T. B.* Tenant by his War-
‘ ranty cometh and defendeth his Right,
‘ when, &c. And as to the said Moiety with
‘ the Appurtenances above demanded against
‘ him, he thereupon further voucheth to War-
‘ ranty *Edmund Wilson*, who is personally pre-
‘ sent here in Court, and freely warranteth the
‘ said Moiety with the Appurtenances to him,
‘ &c. And the said *T. P.* as to the said
‘ Moiety, Residue of the said Manor, Tene-
‘ ments, &c. with the Appurtenances, above
‘ against him demanded, he thereupon further
‘ voucheth to Warrant the said *Edmund*, who
‘ is personally present, &c. and freely war-
‘ ranteth the said Moiety, Residue of the said
‘ Manor, &c. with the Appurtenances, to
‘ him, &c. And hereupon the said *R. J.*
‘ and *T. L.* demand against the said *Edmund*,
‘ Tenant by his Warranty, the whole of the
‘ said Manor, Tenements, &c. with the Ap-
‘ purtenances, in the Manner aforesaid; And
‘ whereupon they declare, that they were seised
‘ of the whole of the said Manor, Tenements,
‘ &c. with the Appurtenances, in their De-
‘ mesne, &c. And thereof they bring their
‘ Suit, &c.

‘ And the said *Edmund* Tenant by his War-
‘ ranty cometh and defendeth his Right,
‘ when, &c. and saith, that the said *Hugh*
‘ *Hunt* did not disseise the said *R.* and *T. L.*
‘ of the whole of the said Manor, Tenements,
‘ &c. with the Appurtenances, as the said *C.*
‘ and *T. L.* by their said Writ and Declaration
‘ do above suppose, And of this he putteth
‘ himself upon the Country, &c.

‘ And the said *C.* and *T. L.* thereupon crave
‘ Leave to imparle, and they have it, &c.

‘ And

And afterwards in this same Term the said C. and T. L. come here again into Court by their said Attorney, and the said Edmund, altho' solemnly called, cometh not, but departed in Contempt of the Court, and maketh Default; Therefore it is adjudged, that the said C. and T. L. recover their Seisin of the whole of the said Manor, Tenements, &c. with the Appurtenances, and that the said R. do have of the Land of the said G. to the Value of the said Moiety above demanded against him, &c. And that the said G. do have over of the Land of the said T. B. to the Value, &c. And that the said T. B. do have over of the Land of the said Edmund to the Value, &c. And also, that the said R. do have of the Land of the said T. P. to the Value of the said Moiety above against him demanded, &c. And that the T. P. do have over of the Land of the said Edmund to the Value, &c. And be the said Edmund amerced, &c. And hereupon the said C. and T. L. pray a Writ of our Sovereign Lord the King to be directed to the Sheriff of the said County, &c'. (*as in other Recoveries.*)

A Surrender by Tenant for Life to make a Tenant to the Præcipe.

THIS Indenture made, &c. Between A. B. of, &c. of the one Part, and C. D. of, &c. of the other Part, *Witnesseth*, That whereas the said A. B. doth hold for the Term of his Life, one Messuage, &c. in L. in the County of E. the immediate Rever-

Of Common Recoveries.

' sion or Remainder whereof doth belong to
 ' the said *C. D.* and his Heirs, or to the Heirs
 ' of his Body lawfully begotten, for ever.
 ' Now the said *A. B.* for the perfecting of
 ' some Assurance shortly to be made of the
 ' same Messuage, &c. by Way of Common
 ' Recovery, hath granted and surrendred, and
 ' by these Presents doth grant and surrender
 ' unto the said *C. D.* and his Heirs, upon the
 ' Condition herein after-mention'd, all that the
 ' said Messuage, &c. and all the Estate, Right,
 ' Title and Interest of the said *A. B.* therein;
 ' *To Have and to Hold* to the said *C. D.* and
 ' his Heirs, upon Condition, That if the said
 ' *C. D.* do not pay or cause to be paid to the
 ' said *A. B.* the Sum of one thousand Pounds
 ' of lawful *British* Money, upon the first Day
 ' of, &c. next ensuing after the Date hereof,
 ' That then and from thenceforth this present
 ' Grant and Surrender shall be utterly void and
 ' of none Effect; And that then also it shall
 ' and may be lawful to and for the said *A. B.*
 ' into the Messuage, &c. to re-enter, and the
 ' same to have again, repossess and enjoy as in
 ' his former Estate and Right; any Thing in
 ' these Presents to the contrary in any wise
 ' notwithstanding. *In Witness, &c.*'

Note, That if a Tenant have but an Estate
 for Life, or be Tenant in Dower, or by the
 Courtesy of *England*, it is requisite for the
 Strengthening of a Recovery, and saving his
 Estate, that he make a conditional Surrender
 of his Estate to him in the Reversion or Re-
 mainder, to the End he may be a present Te-
 nant of the Inheritance, and then to bring the
 Writ of Entry against him; and after that the
 Recovery

Recovery is executed, the particular Tenant, for Breach of the Condition, may enter and enjoy his Term notwithstanding such Surrender.

A Lease and Release to make a † Tenant to the Præcipe in order to suffer a Common Recovery.

The Lease for a Year.

‘ **T** HIS Indenture made, &c. Between C. D. of, &c. of the one Part, and C. S. of, &c. of the other Part, *Witnesseth*, That the said C. D. for and in Consideration of the Sum of five Shillings of lawful Money of Great Britain to him in Hand paid by the said C. S. at and before the Sealing and Delivery of these Presents, the Receipt whereof is hereby acknowledged accordingly, *Hath* bargained and sold, and by these Presents doth bargain and sell, unto the said C. S. All that Messuage, &c. To Have and to Hold all those the before-mentioned Messuages, &c. and Premises with the Appurtenances, hereby bargained and sold, or mentioned or intended so to be, unto the said C. S. his Executors, Administrators and Assigns, from the Day next before the Day of the Date of these Presents, for and during and unto the full End and Term of one whole Year from thence next ensuing and fully to be compleat and ended, to the Intent and Purpose that

† It has been resolved, that a Common Recovery, tho’ defective as to a Tenant to the *Præcipe*, will bar an Equitable Estate in Trust only. 2 Vern. 132.

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' the said C. S. may be in the actual Possession
 ' of the said hereby bargained and sold Pre-
 ' misses, and enabled to receive and take a
 ' Grant and Release of the same Premises in
 ' such Sort, Manner and Form, as in and by
 ' one Indenture of three Parts, intended to be
 ' made between the said C. D. of the first
 ' Part, the said C. S. of the second Part, and
 ' W. H. of L. Gent. of the third Part, and to
 ' bear Date the Day next after the Day of the
 ' Date of these Presents. *In Witness, &c.*'

The Release.

' **T**HIS Indenture of three Parts, made
 ' the — Day of — in the Year of
 ' our Lord 1750, and in the 24th Year of the
 ' Reign of our Sovereign Lord George the Se-
 ' cond, King of *Great Britain, &c.* Between
 ' C. D. of, &c. of the first Part, C. S. of
 ' L. Gent. of the second Part, and W. H. of
 ' L. Gent. of the third Part, *Witnesseth*, That
 ' for the Docking and Barring all Estates-Tail
 ' and Remainders of and in all and every the
 ' Messuages, Lands, Tenements and Heredita-
 ' ments herein after-mentioned, and for assu-
 ' ring the same to and for the Use herein
 ' after declared, and for and in Consideration
 ' of the Sum of 10*s.* of lawful Money of
 ' *Great Britain*, to the said C. D. in Hand paid
 ' by the said C. S. at or before the Sealing
 ' and Delivery of these Presents, the Receipt
 ' whereof is hereby acknowledged, and for
 ' divers other good Causes and Considerations
 ' him hereunto moving, he the said C. D.
 ' hath granted, bargained, sold, aliened, en-
 ' feoffed, released and confirmed, and by these
 ' Presents

' Presents doth grant, bargain, sell, alien, en-
 ' feoff, release and confirm unto the said C. S.
 ' (in his actual Possession now being by Virtue
 ' of one Indenture of Bargain and Sale, bear-
 ' ing Date the Day next before the Day of
 ' the Date of these Presents, to him thereof
 ' made by the said C. D. for the Term of one
 ' whole Year commencing from the Day next
 ' before the Day of the Date thereof, in Con-
 ' sideration of the Sum of 5*s.* of lawful Mo-
 ' ney of *Great Britain* unto the said C. D. in
 ' Hand paid by the said C. S. and by Virtue
 ' of the Statute for transferring Uses into
 ' Possession) and to his Heirs, *All* that Mes-
 ' suage or Tenement formerly in the Tenure
 ' or Occupation of *A. B.* but now of *C. F.*
 ' with the Appurtenances, situate, lying and
 ' being in ——— aforesaid, and all that Close
 ' of Pasture-Ground called the ——— Close,
 ' containing by Estimation three Acres, and
 ' all that Close of Meadow Ground next ad-
 ' joining thereto, containing by Estimation
 ' two Acres, and all that Close of Arable
 ' Land called ——— containing by Estima-
 ' tion five Acres, and all that Cottage and
 ' Garden containing 26 Perches, formerly in
 ' the Occupation of *S. W.* his Assignee or As-
 ' signs, but now pulled down and converted
 ' into an Orchard, and such and the like Com-
 ' mon of Pasture, and other Commodities and
 ' Advantages as formerly have been usually
 ' had, taken and enjoyed in *B.* Common, for
 ' or in Respect of the said Premises or any
 ' Part thereof, which said Closes, Lands and
 ' Premises are Parcels of and respectively be-
 ' long to the Messuage or Tenement and Cot-
 ' tage aforesaid, and also all that Messuage or
 ' Tenement

Of Common Recoveries.

Tenement formerly Customary or Copyhold,
 wherein one *O. P.* did formerly inhabit, but
 now in the Possession of *W. B.* his Assignee
 or Assigns; and also three other Messuages
 or Tenements in the Possessions of *J. S. T.*
H. and *T. J.* some or one of them, situate,
 lying and being in ———— afore said, and all
 that Close of Pasture Ground near adjoining
 unto the said Messuage, containing by Esti-
 mation one Acre, be it more or less, and
 also all and all Manner of Houses, Edifices,
 Buildings, Barns, Stables, Out-houses, Or-
 chards, Gardens, Backsides, Courts, Grounds,
 Arable Land, Meadows, Pastures, Feeding
 Leasows, Closes, Commons, Common of Pa-
 sture, Woods, Underwoods, Trees, and the
 Ground and Soil of the same Ways, Waters,
 Water-courses, Easements, Profits, Com-
 modities, Emoluments, Advantages, Here-
 ditaments and Appurtenances whatsoever to
 the said Messuages or Tenements, and other
 the Premisses, severally and respectively be-
 longing, or in any wise appertaining, or to
 or with the same, or any Part thereof for-
 merly had, used, occupied or enjoyed as
 Part, Parcel or Member of the said Pre-
 misses respectively, or any of them, or ac-
 cepted, reputed, taken or known to be Part,
 Parcel or Member of the same, or of any
 Part or Parcel thereof; All which said Pre-
 misses were formerly and now are Parcel of
 the Manor of ———— afore said, and are situate,
 lying and being in ————, ———— and ———— in
 the said County of *W.* some or one of them,
 and the Reversion and Reversions, Remain-
 der and Remainders, Rents, Issues and Pro-
 fits of all and singular the said Premisses,
 and

and of every Part and Parcel thereof, and
all the Estate, Right, Title, Interest, Use,
Property, Claim and Demand whatsoever of
him the said C. D. of, into, or out of the
said Premisses or any Part of them; *To*
Have and to Hold all those the before-men-
tioned Messuages or Tenements and Cot-
tages, Lands, Hereditaments and Premisses
with the Appurtenances, hereby granted and
released, or intended so to be, unto the said
C. P. his Heirs and Assigns, to the only Use
and Behoof of the said C. S. his Heirs and
Assigns for ever, to the Intent and Purpose,
that he the said C. S. may become perfect
Tenant of the Freehold of the said Premisses
hereby granted and released, to the End that
one or more Common Recovery or Recove-
ries may be thereof had, in such Manner as
is herein after-mentioned, for which Purpose
it is hereby declared and agreed, by and
between the said Parties to these Presents,
and the said C. D. for himself and his Heirs,
doth hereby covenant, promise, and agree to
and with the said C. S. his Heirs and Assigns,
That it shall and may be lawful to and for
the said W. H. before the End of *Michael-*
mas Term next ensuing the Date of these Pre-
sents, at the proper Cost and Charges in the
Law of the said C. D. to sue forth and pro-
secute out of his Majesty's High Court of
Chancery, one or more Writ or Writs of
Entry sur Disseisin en le post, returnable and
to be returned before his Majesty's Justices
of the Court of Common Pleas at *Westmin-*
ster, thereby demanding against the said C. S.
all the said Messuages, Cottages, Lands, Te-
nements Hereditaments and Premisses, with
their

Of Common Recoveries.

' their and every of their Rights, Members
 ' and Appurtenances, by such Name and
 ' Names, Quantities, Qualities, and other De-
 ' scriptions and Certainties, as shall be thought
 ' fit and convenient, to which said Writ or
 ' Writs of Entry the said C. S. shall appear
 ' *gratis* in his proper Person, and vouch to
 ' Warranty the said C. D. who shall also ap-
 ' pear *gratis* in his proper Person, and enter
 ' into the said Warranty, and vouch over to
 ' Warranty the Common Vouchee of the same
 ' Court, who shall also appear, and after Im-
 ' parlance make Default, so as Judgment may
 ' be thereupon had and given for the said W.
 ' H. to recover the said Messuages, Cottages,
 ' Lands, Tenements, Hereditaments and Pre-
 ' mises, with the Appurtenances, intended to
 ' be comprised in the Recovery or Recoveries
 ' against the said C. S. and for him the said
 ' C. S. to recover in Value against the said C.
 ' D. and for him to recover in Value against
 ' the Common Vouchee, and that Execution
 ' may be thereupon had and awarded accord-
 ' ingly, and all and every other Thing and
 ' Things done and executed needful and re-
 ' quisite for the Suffering and Perfecting one
 ' or more such good and perfect Common
 ' Recovery or Recoveries, with Vouchers as
 ' aforesaid, according to the Course of Com-
 ' mon Recoveries suffered for Assurance of
 ' Lands, and according to the true Intent and
 ' Meaning of these Presents, and of the said
 ' Parties hereto. *And* it is hereby declared
 ' and agreed by and between all the said Par-
 ' ties to these Presents, that from and after the
 ' Suffering and Perfecting such Common Re-
 ' covery or Recoveries as aforesaid, as well
 ' these

these Presents and the Assurance hereby made, as also the said Recovery or Recoveries so as aforesaid, or in any other Manner, or at any other Time or Times, to be had, levied, suffered and executed, and all other Common Recoveries, Fines and Conveyances whatsoever had, made, levied or suffered, or to be had, made, levied or suffered of the said Messuages or Tenements, Lands, Hereditaments and Premisses, with the Appurtenances, or any of them or any Part thereof, by or between the said Parties to these Presents, or any of them, or whereunto they or any of them are or shall be Parties or Privies, shall be and enure, and shall be construed, deemed, judged and taken to be and enure, and so are and were meant and intended to be and enure, and are hereby declared by all the said Parties to these Presents to be and enure, and the Recoveror and Recoverors in the said Recovery or Recoveries to be suffered, and all Conusee and Conusees, Recoveror and Recoverors, in any Fine and Fines, Recovery and Recoveries already levied and suffered, or which shall or may at any Time hereafter be levied and suffered, and his and their Heirs, shall stand and be seised of and in all and every the said Messuages or Tenements, Lands, Hereditaments and Premisses, with the Appurtenances, to and for the Use herein after limited and expressed, (that is to say) To the Use and Behoof of the said C. D. his Heirs and Assigns for ever, and to and for no other Use, Intent or Purpose whatsoever. *In Witness* whereof the Parties to these Presents have hereunto interchangeably set their Hands and Seals, the Day and Year first above-written.

By

Of Common Recoveries.

By Statute 4 & 5 *Ann.* it is declared, That all Declarations of Uses or Trusts by Deed made after the Levying or Suffering of any Fine or Recovery, by the Party who is by Law enabled to declare such Uses or Trusts, shall be good and effectual in the Law as if the Act of Frauds and Perjuries (29 *Car.* 2.) had never been made.

Note; The Act of 29 *Car.* 2. enacts that all Declarations of Trusts of any Lands, &c. shall be in Writing signed by the Parties; and therefore before the making of the said Act it was doubted whether the Declarations or Creations of Trusts or Confidences of any Fine or Common Recoveries manifested by Deed made after the Levying or Suffering of such Fines or Recoveries, were good in Law, but that Doubt is removed by the said Statute of 4 & 5 *Ann.*

If a Precedent Deed be made whereby it is agreed, that the Recovery which is to be suffered shall be to such and such Uses, and a Recovery is accordingly suffered, the Recovery can't be averred to be to other Uses than those mentioned in the Deed, without shewing a new Agreement; but if the Uses are declared by a subsequent Deed, there they arise by the Recovery, and there may be a Parol Averment that the Recovery was to other Uses, but a subsequent Deed is very strong Evidence. 1 *Ld. Raym.* 155.

Robert Earl Ferrers was seised for Life only of his Family Estate, Remainder to his first, &c. Son in Tail successively; the Earl's eldest Son was an Infant, and on an advantageous Proposal for the Son's Marriage the Father and Son joined in Marriage Articles, whereby the

the Lord *Ferrers* only covenanted, that he and his said Son should, within a Year after his said Son should come of Age, join in a Fine and Recovery of the Family Estate to divers Uses; the Infant Son sealed the Deed, and within a Year after coming of Age pursuant to his Father's Covenant joined with his Father in levying a Fine and suffering a Recovery, but there was no Deed to be found for leading the Uses of this Fine and Recovery; and therefore the Infant Son's Sealing these Articles held not sufficient to declare the Uses of the Fine and Recovery. *Nightingale & al* vers. *Comit Ferrers*, 3 *Peere Williams* 206.

A Release, being a Purchase Deed of a Messuage, &c. in London, with a Covenant to levy a Fine and to produce Deeds, &c.

THIS Indenture made the — Day of — in the Year of our Lord 1744, and in the 18th Year of the Reign of King *George*, &c. Between *H. B.* of — and *F.* his Wife, of the one Part, and *T. R.* of, &c. of the other Part, *Witnesseth*, That the said *H. B.* and *F.* his Wife, for and in Consideration of the Sum of — of, &c. to him the said *H. B.* in Hand, at or before the Sealing and Delivery of these Presents by the said *T. R.* well and truly paid (in full for the absolute Purchase of the Messuages, Lands, Tenements and Hereditaments, herein after mentioned to be hereby granted and released) the Receipt whereof the said *H. B.* doth hereby acknowledge and confess, and thereof and therefrom, and of and from every Part and

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and Parcel thereof, doth fully and absolutely
 acquit, release and discharge the said T. R.
 his Heirs and Assigns forever, by these Pre-
 sents, have granted, bargained, sold, aliened,
 remised, released, ratified and confirmed,
 and by these Presents Do grant, bargain,
 sell, alien, remise, release, ratify and con-
 firm, unto the said T. R. (in his actual Pos-
 session now being by Virtue of a Bargain and
 Sale to him thereof made by the said H. B.
 for five Shillings Consideration, by Indenture
 bearing Date the Day next before the Day
 of the Date of these Presents, for one whole
 Year commencing from the Day next before
 the Day of the Date thereof, and by Force of
 the Statute for transferring Uses into Possession)
 and to his Heirs and Assigns, All that Mes-
 suage or Tenement, together with the little
 Messuage, House or Warehouse behind the
 same, situate, standing and being in—
 Street in the Parish and Ward of St. M.
 and Parish of St. A. in the City of London,
 or one of them, formerly in the Tenure or
 Occupation of Elizabeth Lady Baroness
 Dowager of C. and late in the Tenure or Oc-
 cupation of F. P. and S. T. or one of them;
 and also all Houses, Outhouses, Edifices,
 Buildings, Sheds, Yards, Backsides, Ways,
 Passages, (* particularly free Way and Passage
 at all Times to and from the Yard belonging to
 the said hereby released Messuage or Tenement,
 by and thro' the Gateway or Passage leading
 from B. Street aforesaid to the C. W. Inn,
 late in the Occupation of P. W. Stable-keeper,
 deceased, so long as the same shall continue a
 Gateway or Passage, and till built upon)

* These Words in *Italick* must be left out in the Lease for a Year.

Lights, Easements, Waters, Watercourses,
 Privileges, Profits, Commodities, Emolu-
 ments, Hereditaments and Appurtenances
 whatsoever to the said Messuage or Tene-
 ment, little Messuage, House or Wash-house
 and Premises, or to any of them belonging
 or in any wise appertaining, or therewith
 used, occupied or enjoyed; All which said
 Premises were lately purchased by the said
H. B. of and from *A. B. V.* and *M. V.*
 Spinsters: And the said Messuage or Tene-
 ment was then standing in Part over the said
 Gateway or Passage, but now in Part upon
 such Passage, the Buildings, Boundaries and
 Dimensions of which said Messuage or Te-
 nement, little Messuage, House or Ware-
 house, hereby released and mentioned, and
 intended so to be, are particularly mentioned,
 delineated and described in the Plan or Plat-
 form thereof laid down or drawn in the
 Margin of these Premises; and the Rever-
 sion and Reversions, Remainder and Re-
 mainders, Rents, Issues and Profits of all
 and singular the said Premises, with their
 and every of their Appurtenances; and also
 all the Estate, Right, Title, Interest, Use,
 Trust, Property, Possession, Claim and De-
 mand whatsoever, either at Law or in Equity,
 of them the said *H. B.* and *F.* his Wife, or
 either of them, of, in and to the said Pre-
 mises, and every or any Part or Parcel
 thereof, together with all Deeds, Writings
 and Escrips whatsoever, which do any ways
 relate to or concern the said Premises, or
 any Part thereof; and no other Messuages,
 Lands, Tenements or Hereditaments of him
 the said *H. B.* and true Copies of all such as

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con-

Of Common Recoveries.

‘ concern the said Premisses, or any Part there-
 ‘ of, jointly with any other Messuages, Lands,
 ‘ Tenements or Hereditaments of him the said
 ‘ *H. B.* now in his Custody or Power, and
 ‘ which he can come by without Suit in Law
 ‘ or Equity; *To Have and to Hold* the said
 ‘ Messuage or Tenement, little Messuage,
 ‘ House or Washhouse, and all and singular
 ‘ the Premisses above hereby granted, bar-
 ‘ gained, sold and released, or mentioned or
 ‘ intended so to be, with their and every of
 ‘ their Appurtenances, and every Part and
 ‘ Parcel thereof, unto the said *T. R.* his Heirs
 ‘ and Assigns, To the only proper Use and
 ‘ Behoof of the said *T. R.* his Heirs and As-
 ‘ signs forever, and to and for no other Use,
 ‘ Intent or Purpose whatsoever: And the said
 ‘ *H. B.* Doth for himself, and for the said *F.*
 ‘ his Wife, and their Heirs, covenant, pro-
 ‘ mise and agree to and with the said *T. R.*
 ‘ his Heirs and Assigns, by these Presents in
 ‘ Manner following (that is to say) That he
 ‘ the said *H. B.* and *F.* his Wife and their
 ‘ Heirs shall and will, at the proper Costs and
 ‘ Charges of the said *T. R.* his Heirs or As-
 ‘ signs, before the End of *Michaelmas* Term
 ‘ next ensuing the Date hereof, in due Form of
 ‘ Law levy and acknowledge, or cause to be
 ‘ acknowledged and levied, before his Ma-
 ‘ jesty’s Justices of the Court of Common
 ‘ Pleas at *Westminster*, one or more Fine or
 ‘ Fines *sur Conusans de Droit come ceo*, &c.
 ‘ with Proclamations according to the Form
 ‘ of the Statute in that Case made and provi-
 ‘ ded, and the usual Course of Fines for the
 ‘ Assurance of Lands of all that the said Mes-
 ‘ suage or Tenement, little Messuage, House
 ‘ or

or Washhouse, Hereditaments and Premises, hereby granted and released, or mentioned or intended so to be, with their and every of their Appurtenances and every Part and Parcel thereof, by such apt and convenient Name or Names, Quantities, Qualities, Descriptions and Contents to ascertain the same, and in such Sort, Manner and Form, as shall be thought most requisite and convenient, and as by the said *T. R.* his Heirs and Assigns, or his or their Counsel learned in the Law, shall be reasonably advised or required; which said Fine or Fines so as aforesaid, or in any other Manner, or at any other Time, to be had and levied, and all and every other Fine and Fines, Recovery and Recoveries, Conveyances and Assurances in the Law whatsoever, at any Time heretofore had, made, levied, acknowledged, executed or suffered of the said Premises, or any Part thereof, by or between the said Parties to these Presents, or any or either of them, or they or any or either of them, was and were, or shall or may be Parties or privy, shall be and enure, and shall be adjudged, deemed and taken, and so is, are and were meant and intended to be and enure, to the only proper Use and Behoof of the said *T. R.* his Heirs and Assigns forever, and to and for no other Use, Intent or Purpose whatsoever: And the said *H. B.* doth hereby for himself, his Heirs, Executors and Administrators, further covenant, promise and agree to and with the said *T. R.* his Heirs and Assigns, and to and with every of them, That he the said *H. B.* for and notwithstanding any Act, Deed, Matter or Thing

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' by him the said *H. B.* or by any other Per-
 ' son or Persons claiming or to claim by,
 ' from or under him, or by or thro' his or
 ' their Act, Means, Default, Neglect, As-
 ' sent, Consent, Privity or Procurement, done
 ' or suffered to the contrary at the Time of
 ' the Sealing and Delivery of these Presents,
 ' is and standeth lawfully and rightfully seised
 ' of and in the said Messuage or Tenement,
 ' little Messuage, House or Warehouse and
 ' Premisses hereby granted and released, or
 ' mentioned or intended so to be, with the
 ' Appurtenances, of and in a good, sure, legal,
 ' absolute and indefeasible Estate of Inheri-
 ' tance in Fee-Simple, without any manner of
 ' Condition, Limitation of Use or Uses;
 ' Trust, Restrictions or other Matter or Thing
 ' whatsoever, to alter, change, charge, defeat,
 ' incumber, or make void the same: *And fur-*
 ' *ther*, That the said *H. B.* (for and notwithstand-
 ' ing any such Act, Deed, Matter or Thing
 ' as aforesaid) at the Time of the sealing and
 ' executing of these Presents, now hath in him-
 ' self good Right, full Power, and lawful and
 ' absolute Authority to grant, bargain and sell,
 ' remise, release, ratify and confirm the said
 ' Messuage or Tenement, little Messuage,
 ' House or Washhouse, and all and singular
 ' other the Premisses hereby granted and re-
 ' leased, or mentioned or intended so to be,
 ' with their and every of their Appurtenances,
 ' unto the said *T. R.* his Heirs and Assigns,
 ' in Manner and Form aforesaid, according to
 ' the true Intent and Meaning of these Pre-
 ' sents: *And further*, That the said *T. R.* his
 ' Heirs and Assigns shall and lawfully may
 ' from Time to Time, and at all Times here-
 ' after,

after, peaceably and quietly enter into, have, hold, use, occupy, possess and enjoy all and singular the said Premises with the Appurtenances hereby granted and released, or mentioned or intended so to be, and receive and take the Rents, Issues and Profits thereof to his and their own Use and Uses forever, without any Let, Suit, Trouble or Interruption, Claim or Demand whatsoever, of or by the said *H. B.* and *F.* his Wife or either of them, their or either of their Heirs or Assigns, or any other Person or Persons whomsoever lawfully claiming or to claim by, from or under, or *In Trust* for him, her or them, or any or either of them, and that free and clear, and freely, clearly and absolutely acquitted, freed and discharged of, from and against all and all Manner of former and other Charges and Titles, Troubles and Incumbrances whatsoever had, made, committed, done or suffered by the said *H. B.* his Heirs and Assigns, or any other Person or Persons, by or with his or their Means, Privity or Procurement: *And moreover,* That they the said *H. B.* and *F.* his Wife, their Heirs and Assigns, and all and every other Person and Persons, having or lawfully claiming any Estate, Right, Title or Interest of, in or to the said hereby granted and released Premises, or any Part thereof by, from or under him, them or any of them, shall and will at all Times hereafter, upon the reasonable Request and at the proper Costs and Charges in the Law of the *T. R.* his Heirs or Assigns, make, do, acknowledge, levy, execute and suffer, or cause and procure to be made, done, ac-

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A Covenant
to produce
Deeds, &c.

' knowledged, levied, executed and suffered,
 ' all and every such further and other lawful
 ' and reasonable Act and Acts, Thing and
 ' Things, Deeds, Conveyances and Assurances
 ' in the Law whatsoever, for the further, bet-
 ' ter and more perfect and absolute granting
 ' and releasing, conveying, and assuring the
 ' said Messuage or Tenement, little Messuage,
 ' House or Washhouse, and other the Pre-
 ' mises with their Appurtenances, unto and
 ' to the Use of him the said T. R. his Heirs
 ' and Assigns forever, according to the true
 ' Intent and Meaning of these Presents, *Be it*
 ' by Fine or Fines, Common Recovery or Re-
 ' coveries, Deed or Deeds inrolled or not
 ' inrolled, the Inrollment of these Presents, or
 ' by all or any other Ways or Means whatso-
 ' ever, as by the said T. R. his Heirs and As-
 ' signs, or his or their Counsel learned in the
 ' Law, shall be reasonably devised, advised or
 ' required; *All* which further and other Act
 ' or Acts, Fine and Fines, Common Recovery
 ' or Recoveries, Conveyances and Assurances,
 ' so to be had, made, done, acknowledged,
 ' levied, executed and suffered, shall be and
 ' enure to the only proper Use and Behoof of
 ' the said T. R. his Heirs and Assigns for-
 ' ever, and to and for no other Use, Intent or
 ' Purpose whatsoever: *And lastly*, The said
 ' H. B. doth hereby for himself, his Heirs
 ' and Assigns, further covenant, promise and
 ' agree to and with the said T. R. his Heirs
 ' and Assigns, That he the said H. B. his Heirs
 ' and Assigns, shall and will from Time to
 ' Time, and at all Times hereafter, upon the
 ' reasonable Request and at the proper Costs
 ' and Charges in the Law of the said T. R.
 ' his

‘ his Heirs and Assigns, produce and shew,
 ‘ or cause to be produced and shewn in any
 ‘ Court of Law or Equity, and also before
 ‘ any Person or Persons whomsoever and
 ‘ wheresoever, all and every the Deeds, Wri-
 ‘ tings and Escripts whatsoever in his or their
 ‘ Custody or Power, which any way relate to
 ‘ and concern the said Messuage or Tenement,
 ‘ little Messuage, House or Washhouse, and
 ‘ Premises hereby released, or any Part or
 ‘ Parcel thereof, either alone or jointly with
 ‘ any other Messuages, Lands or Tenements
 ‘ of the said *H. B.* or otherwise, in order to
 ‘ evidence and make out the Title of the said
 ‘ *T. R.* his Heirs and Assigns, in and to the
 ‘ same, in such Sort, Manner and Form as
 ‘ by the said *T. R.* his Heirs and Assigns, or
 ‘ his or their Counsel learned in the Law, shall
 ‘ be reasonably advised or required. *In Wit-*
 ‘ *ness, &c.*’

*A Deed of Settlement made after Mar-
 riage, drawn by Counsel, (pursuant to
 Articles) of several Manors, capital Mes-
 suages, Rectories, Advowsons, &c. in
 which are contained several special Co-
 venants.*

‘ **T** HIS Indenture Tripartite made the 26th Parties.
 ‘ Day of May in the 10th Year of the
 ‘ Reign of our Sovereign Lord George the Se-
 ‘ cond, by the Grace of God, of Great Britain,
 ‘ France and Ireland King, Defender of the
 ‘ Faith, &c. and in the Year of our Lord 1736,
 ‘ Between *J. S.* of *H.* in the County of—, Esq;
 ‘ and *C.* his Wife, *P. S.* of *L.* in the said
 T 4 County

Of Common Recoveries.

Considera-
tions..

County of —, Gent. and *E. S.* Gent. Son
and Heir of the said *P. S.* of the first Part,
A. D. of — in the County of —, Esq;
T. J. of — afore said, Gent. *W. S.* of —
in the said County of —, Gent. *W. W.*
of — afore said, Gent. *J. S.* of — afore-
said, Gent. and *J. W.* of — afore said,
Gent. of the second Part, and *J. W.* Widow
and Relict of *S. W.* late of — afore said,
Gent. deceased, of the third Part, *Witnesseth*,
That the said *J. S.* and *K.* his Wife, *P. S.*
and *E. S.* for and in Consideration of a Mar-
riage already had and solemnized between
the said *J. S.* and the said *K.* his Wife, and
of the Sum of one thousand Pounds of law-
ful *British* Money, paid and secured to be
paid by the said *J. W.* to the said *J. S.* for
and as the Marriage Portion of the said *K.*
and for the Assuring and Settling a compe-
tent Jointure, Provision and Maintenance for
the said *K.* in case she happen to survive the
said *J. S.* and for the Conveying, Settling
and Assuring of all and singular the Manors,
Messuages, Lands, Tenements and Heredi-
taments with their Appurtenances herein-
after-mentioned, being the Inheritance of
the said *J. S.* To the several Uses, Intents
and Purposes, and under the several Limi-
tations, Provisoos, Trusts, Agreements and
Contingencies in and by these Presents limit-
ed, appointed and declared for and touch-
ing the same, and in Pursuance and Perfor-
mance of certain Articles of Agreement bear-
ing Date the 20th Day of — in the Year
of our Lord — and made or mentioned
to be made between the said *J. S.* of the
first Part, the said *P. S.* and *E. S.* of the se-
cond

' cond Part, and the said *J. W.* of the third
 ' Part, and for divers other good Causes and
 ' Considerations the said Parties thereunto
 ' moving, It is hereby covenanted, con-
 ' cluded and agreed upon, by and between
 ' the said Parties to these Presents, and the
 ' said *J. S.* for himself and the said *K.* his Covenant to
 ' Wife, and the said *P. S.* for himself, and levy a Fine.
 ' the said *E. S.* for himself, do severally
 ' and respectively covenant and agree to and
 ' with the said *J. W.* her Executors and Ad-
 ' ministrators, that they the said *J. S.* and *K.*
 ' his Wife, and the said *P. S.* and *E. S.* shall
 ' and will, at the proper Costs and Charges in
 ' the Law of the said *J. S.* at or before the
 ' next Great Session or Assizes to be held for
 ' the County of ———, acknowledge and
 ' levy before his Majesty's Justices of the said
 ' Great Session, unto the said *A. D. T. J. W.*
 ' *S. W. W. J. S.* and *J. W.* and the Survivor
 ' of them, and the Heirs of such Survivor,
 ' one *Fine sur Conusance de Droit come ceo, &c.*
 ' to be engrossed, sued forth, and recorded
 ' with Proclamations, according to the Course
 ' of Fines with Proclamations, used for Assu-
 ' rance of Lands in the said County of ———, Premises,
 ' of all those two several Manors and Lord-
 ' ships, or reputed Manors and Lordships of
 ' ——— and ——— within the said County
 ' of ———, with the Court-Leet, View of
 ' Frank-pledge, and all that to the View of
 ' Frank-pledge doth belong, within the said
 ' several Manors and Lordships or either of
 ' them, and all and singular Courts, Perqui-
 ' sites of Courts, Fines, Amerciaments, Es-
 ' cheats, Waifs, Estrays, Felons Goods, Free
 ' Warren, and a Free Fishery upon the River
 ' *Dec*

Of Common Recoveries.

' Dee or elsewhere, and all Signories, Fruits,
 ' Profits of Signories, Jurisdictions, Privi-
 ' leges, Franchises, Liberties, Royalties,
 ' Rights, Members and Appurtenances, unto
 ' the said several Lordships or either of them,
 ' or to the said J. S. belonging or appertain-
 ' ing, and all that Capital Messuage or Man-
 ' sion House called the Hall of ———, with
 ' the Dairy-house next adjoining thereto, with
 ' their Appurtenances, situate, lying and be-
 ' ing in ——— aforesaid, within the said
 ' County of ———, and now in the Holding
 ' of the said J. S. his Assignees or Underte-
 ' nants, and all Edifices, Cottages, Buildings,
 ' Barns, Stables, Dove-cotes, Gardens, Yards,
 ' Orchards, Lands, Meadows, Leafows, Pa-
 ' stures, Feedings, Woods, Underwoods,
 ' Ways, Waters, Easements, Profits, Com-
 ' mons, Commodities, Hereditaments and Ap-
 ' purtenances whatsoever, to the said Manors
 ' and Capital Messuages belonging or in any
 ' wise appertaining, or to or with the same
 ' usually set, let, occupied or enjoyed, or ta-
 ' ken, reputed or known as Part, Parcel or
 ' Member thereof, or thereto belonging, si-
 ' tuate, lying and being in ——— and ———,
 ' or either of them, in the Holding of the
 ' said J. S. R. P. M. P. J. E. and J. A.
 ' their Assigns or Undertenants; and also all
 ' those several Messuages or Tenements with
 ' the Appurtenances, lying and being in ———
 ' within the said County of ———, now in
 ' the Holding or Occupation of the said J.
 ' S. W. J. M. M. Widow, T. B. J. B. and
 ' T. C. their or some of their Undertenants
 ' or Assigns, and all Edifices, Cottages,
 ' Buildings, Barns, Stables, Gardens, Or-
 ' chards,

' chards, Backsides, Lands, Meadows, Lea-
 ' fows, Pastures, Feedings, Woods, Under-
 ' woods, Ways, Waters, Easements, Profits,
 ' Commons, Common of Pasture and Tur-
 ' bary, Commodities, Hereditaments and Ap-
 ' purtenances whatsoever, to the said several
 ' Messuages, Tenements, Lands and Pre-
 ' mises, lying, belonging, or in any wise ap-
 ' pertaining, situate, lying and being in —
 ' aforesaid, or any or either of them; and
 ' also all that the Rectory or Parsonage Im-
 ' propiate of the Church of — aforesaid,
 ' said, and all Glebe Lands, Tenths or Tithes
 ' of Corn, Grain and other Tithes, as well
 ' great as small Portions, Pensions, Oblations,
 ' Obventions, Profits, Fruits, Emoluments
 ' and Free Fishery, to the same howsoever be-
 ' longing in — aforesaid, and in —,
 ' — and — or elsewhere, together
 ' also with the Advowson, Patronage, Right
 ' of Patronage, Nomination, Free Disposi-
 ' tion and Donation of, in and to the Vica-
 ' rage and Parish Church of — aforesaid,
 ' and all and singular other the Messuages,
 ' Tenements, Houses, Dove-cotes, Barns, Sta-
 ' bles, Edifices, Buildings, Curtilages, Yards,
 ' Orchards, Gardens, Backsides, Lands, Tene-
 ' ments, Meadows, Leasows, Pastures, Feed-
 ' ings, Closes, Inclosures, Woods, Under-
 ' woods, Trees, Rents, Reversions, Annuities,
 ' Fee-Farm Rents, Quit-Rents and Free-
 ' Rents, Ways, Paths, Waters, Streams,
 ' Places, Watercourses, Ponds, Pools, Motes,
 ' Meers, Lands covered with Water, War-
 ' rens, Wastes, Commons, Furzes, Heaths,
 ' Moors, Common of Pasture and Turbary,
 ' Sheep-walks, Foldage and Liberty of Fold-
 ' course,

Of Common Recoveries.

' course, Suit, Mulcture, Court-Baron and
 ' Court-Leet, View of Frank-pledge, and all
 ' that to the View of Frank-pledge belongeth,
 ' Fealties, Escheats, Heriots, Fines, Amer-
 ' ciaments, Goods and Chattels of Felons and
 ' Fugitives, of Persons outlawed and put in
 ' Exigent, of *Felons de se*, Waifs, Estrays,
 ' Treasure Trove, Mines, Quarries, Delves,
 ' and other Royalties, Privileges, Advan-
 ' tages, Emoluments and Hereditaments what-
 ' soever, of him the said J. S. or whereof
 ' or wherein he hath or ought to have any
 ' Estate of Inheritance in Possession, Rever-
 ' sion, Remainder or Expectancy, situate,
 ' lying and being accrewing or arising with-
 ' in the said several Manors and Town-
 ' ships, or elsewhere within the said County
 ' of ———, heretofore the Inheritance of E.
 ' S. Esq; deceased, Grandfather of the said
 ' J. S. Party to these Presents, and the Rever-
 ' sion and Reversions, Remainder and Remain-
 ' ders of all and singular the said Manors,
 ' Rectory, Advowson, Messuages, Tenements,
 ' Lands, Hereditaments and Premisses, and
 ' every Part and Parcel thereof, and the Rents,
 ' Issues and Profits, and Services to them or
 ' any of them incident, and all the Rents and
 ' yearly Profits, Reservations, reserved or pay-
 ' able in, by or upon any Lease or Leases had
 ' or made of any of the said Premisses, and all
 ' the Estate, Right, Title, Interest, Use, Pos-
 ' session, Property, Benefit, Claim or Demand
 ' whatsoever of him the said J. S. of, in or to
 ' the said Premisses, or to every Part or Par-
 ' cel thereof. And it is granted, covenanted
 ' and agreed upon, by and between all the said
 ' Parties to these Presents, for them and every
 ' of

The Uses of
 a Fine de-
 clared.

of them, their and every of their Heirs and
 Assigns, That the said Fine so as aforesaid
 to be levied of all and singular the said
 Advowson, Rectory, Manors, Lands, Mes-
 suages, Tenements and Premisses, or any Part
 thereof, and also all and every other Con-
 veyances and Assurances whatsoever of the
 said Premisses, heretofore had or made, or
 hereafter to be had or made, acknowledged,
 suffered, levied or executed, shall be deemed,
 adjudged and taken to be and enure, and the
 said *A. D. T. J. W. S. W. W. J. S. and J.*
W. Conuzees in the said Fine to be named,
 and their Heirs, shall stand and be seised of
 all and singular the said Manors, Advow-
 son, Rectory, Messuages, Lands, Tenements,
 Hereditaments, and all other the Premisses
 with the Appurtenances, to the several Uses,
 Intents and Purposes, at and under the se-
 veral Trusts, Powers, Provisoos, Limitations
 and Contingencies hereafter in and by these
 Presents mentioned, limited, appointed and
 declared concerning the same, and to and
 for no other Use, Intent or Purpose whatso-
 ever, (that is to say) To the Intent and Pur-
 pose, that from and after the Levying the
 said Fine, the said *P. S.* his Executors, Ad-
 ministrators and Assigns, shall and may from
 thenceforth yearly and every Year, for and
 during the Term of 99 Years, if he the said
P. S. *A.* his now Wife, and the said *E. S.*
 their Son, or any of them, do or shall so long
 live, have, perceive, receive and take to his
 and their own Use the yearly Sum of 20*l.* A Rent
 of lawful *British* Money, to be issuing, due Charge of
 and payable out of all and singular the said 20*l.* per Ann.
 Manors, Advowson, Rectory, Messuages,
 Tenements,

Of Common Recoveries.

Subject to
Taxes in Pro-
portion to the
other annual
Rents of the
Premises.

Power to Di-
strain.

Tenements, Lands, Hereditaments and Pre-
misses, subject nevertheless to all Taxes and
other incident Charges, in Proportion to the
other annual Rents of the Premises; the se-
veral yearly Rents payable to the Dean and
Chapter of the Cathedral Church of —,
and to Sir R. G. Baronet, only excepted, and
to be paid and payable to the said P. S. his
Executors, Administrators or Assigns, at the
two usual Feast-Days of St. *Michael* the
Archangel, and the Annunciation of the Blef-
sed Virgin *Mary*, by even and equal Portions;
the first Payment to be made at such of the
said Feast-Days as shall first or next happen
after the Levying of the said Fine, and to
the Intent, Use and Purpose, that if the said
yearly Rent of 20*l.* or any Part thereof shall
happen to be behind or unpaid in Part
or in all by the Space of 30 Days next after
any of the said Days, on which the same
ought to be paid as aforesaid, contrary to the
true Intent and Meaning of these Presents
and the Parties hereto; That then and so of-
ten as the same shall so happen to be behind
and unpaid, It shall and may be lawful to
and for the said P. S. his Executors, Admi-
nistrators or Assigns, during the said Term of
99 Years, (determinable as aforesaid) into the
said Premises or any Part thereof to enter
and distrain, and the Distress and Distresses
there found to take, drive, carry away, im-
pound, retain or otherwise dispose of, for
the Payment of the said Annuity or yearly
Rent or Sum of 20*l.* or any Arrears there-
of, that shall happen to be at any Time due
and owing to him the said P. S. his Execu-
tors, Administrators or Assigns, for or du-
ring

ring the said Term of 99 Years, determinable as aforesaid; And as for and concerning all and singular the said Premises, (subject nevertheless to the said yearly Rent as aforesaid) To the several Uses, Intents and Purposes herein after mentioned and expressed, (that is to say) As for and concerning all that the Rectory or Parsonage impropriate of ———, with the Glebe Lands, Tithes, as well great as small, and also all those several Messuages and Lands, and all and singular other the Premises herein before mentioned to be situate, lying or being, growing, accreving or arising within the Parish of ——— aforesaid, to the Use and Behoof of the said J. S. his Heirs and Assigns for ever; And as to, for and concerning all those two several Pieces or Parcels of Lands, with their Appurtenances, called by the several Names of ——— and ———, Part and Parcel of the said Manor of ———, to the Use and Behoof of the said A. D. T. J. W. S. W. W. J. S. and J. W. and the Survivor of them, and the Executors, Administrators and Assigns of such Survivor, for and during and unto the full End and Term of 100 Years, subject to the Provisoes and Agreements herein after contained, and as well for and concerning the said Clofes called ——— and ———, from and after the Expiration or other sooner Determination of the said Term of 100 Years, as also all and singular the said two several Manors and Lordships of ——— and ———, with the Messuages, Tenements, Lands and Premises to the same belonging, lying and being in ——— and ——— aforesaid, the little Hall of ———, with the Lands

The Fine as to Part of the Premises, to operate to the Use of J. S. in Fee;

as to certain other Parts of the Premises, the Fine to the Use of Trustees for 100 Years, subject to the Provisoes after mentioned, viz.

to the Use of
J. S. for Life,
with Power to
commit
Waste.

Trustees to
preserve con-
tingent Re-
mainders,

and after J. S.
his Death, to
the Use of K.
his Wife, for
Life, in Bar
of Dower,

and after her
Decease, to
the Trustees
for 500
Years, and af-
ter the Deter-
mination
thereof to the
1st, &c. Son
of the said J.
S. by the said
K.

‘ Lands thereto belonging only excepted, to
‘ the Use and Behoof of the said J. S. and his
‘ Assigns, for the Term of his natural Life,
‘ without Impeachment of Waste, and with
‘ full Power to do and commit Waste, and
‘ from and immediately after the Determina-
‘ tion of that Estate, then to the Use and Be-
‘ hoof of the said A. D. T. J. W. S. W. W.
‘ J. S. and J. W. and their Heirs and Assigns,
‘ and the Heirs and Assigns of the Survivor
‘ of them, for and during the Life of the said
‘ J. S. for the Preserving the contingent Re-
‘ mainders thereof from being defeated and
‘ destroyed, and for that Purpose to make
‘ Entries and bring Actions as there shall be
‘ Occasion, but not to receive the Profits there-
‘ of to their own Use and Uses; and from
‘ and after the Death of the said J. S. then to
‘ the Use and Behoof of the said K. Wife of
‘ the said J. S. for and during all the Term
‘ and Time of her natural Life, for and in the
‘ Name of and as her Jointure, and in full
‘ Recompence and Satisfaction of her Dower,
‘ which she may or might claim, challenge or
‘ have in all or any the Manors, Messuages,
‘ Lands, Tenements or Hereditaments of the
‘ said J. S. her said Husband, and from and
‘ after the Determination of that Estate, to the
‘ Use and Behoof of the said A. D. T. J. W.
‘ S. W. W. J. S. and J. W. and the Survivor
‘ of them, and the Executors, Administra-
‘ tors and Assigns of such Survivor, for and
‘ during and unto the full End of 500 Years,
‘ subject nevertheless to the Intents, Trusts,
‘ Covenants and Agreements herein after men-
‘ tioned; and from and after the Expiration
‘ or sooner Determination of the said Term of

500 Years, then to the Use and Behoof of
 the 1st, 2d, 3d, 4th, 5th 6th, and 7th, and
 all and every the other Son and Sons of the
 Body of the said J. S. upon the Body of the
 said K. his Wife lawfully begotten or to be
 begotten, severally and successively, and in
 Remainder one after another, in Order and
 Course, as they shall be in Priority of Birth
 and Seniority of Age, and the Heirs Males
 of the severall and respective Body and Bo-
 dies of such 1st, 2d, 3d, 4th, 5th, 6th, and
 7th, and every other Son lawfully issuing;
 the Elder of such Son and Sons, and the
 Heirs Males of his Body, to be preferred
 and take before the Younger of such Son
 and Sons, and the Heirs Males of his and
 their Body and Bodies lawfully issuing; and
 for want of such Issue Male as aforesaid,
 that then the said Manors, Lands, Tene-
 ments, Hereditaments and Premisses, herein
 before limited to the said J. S. for his Life,
 from and after the Expiration, or other
 sooner Determination of the said Term of
 500 Years, shall be and remain to the said
 A. D. T. J. W. S. W. W. J. S. and J. W.
 and the Survivor and Survivors of them, and
 the Heirs and Assigns of such Survivor shall
 stand and be seised thereof, to the Use and
 Behoof of the 1st, 2d, 3d, 4th, 5th, 6th and
 7th, and all and every other Son and Sons
 of the Body of the said J. S. upon the Body
 of any other Wife or Wives lawfully to be
 begotten, severally and successively one after
 another, according as they shall be in Senio-
 rity of Age and Priority of Birth, and the
 Heirs Males of the severall and respective
 Body and Bodies of such 1st, 2d, 3d, 4th,
 U 5th,

for want of
 such Issue,
 then the Pre-
 misses limited
 to J. S. for
 Life, after the
 Expiration of
 the said 500
 Years, to
 Trustees to
 the Use of the
 Issue Male of
 the said J. S.
 by any other
 Wife, and for
 want of such
 Issue, to P. S.
 for Life,

Of Common Recoveries.

afterwards to
E. S. for
Life.

Trustees to
preserve con-
tingent Re-
mainders.

After E. S. his
Death, to his
Issue Male in
Tail;

5th, 6th and 7th, and every other Son law-
fully issuing; and for want of such Issue,
that the said *A. D. T. J. W. S. W. W. J. S.* and *J. W.* and the Survivor and Survi-
vors of them, and the Heirs and Assigns of
such Survivor, shall stand and be seised of all
and singular the said Manors, Lands, Tene-
ments, Hereditaments and Premises, herein
before limited to the said *J. S.* for his Life,
subject nevertheless to the said Term of 500
Years, to the Use and Behoof of the said
P. S. for and during the Term of his natural
Life, and from and after his Decease, then
to the Use and Behoof of the said *E. S.* for
and during the Term of his natural Life,
and from and after the Determination of that
Estate, to the Use and Behoof of the said
A. D. T. J. W. S. W. W. J. S. and *J. W.*
and their Heirs for and during the Life of
the said *E. S.* only for the Preserving the
Contingent Remainders thereof from being
defeated or destroyed, and for that Purpose
to make Entries and bring Actions as there
shall be Occasion, but not to receive the Pro-
fits thereof to his or their own Use or Uses;
and from and after the Death of the said *E.*
S. then to the Use and Behoof of the 1st,
2d, 3d, 4th, 5th, 6th and 7th, and all and
every other Son and Sons of the Body of the
said *E. S.* lawfully to be begotten, severally
and successively, one after another, accord-
ing to their Seniority of Age and Priority of
Birth, and the Heirs Males of the several and
respective Body and Bodies of such 1st, 2d,
3d, 4th, 5th, 6th and 7th, and all and every
other Son lawfully issuing; the Elder of such
Sons, and the Heirs Males of his Body issu-
ing,

ing, being ever preferred before the Younger
 of such Sons, and the Heirs Males of his and
 their Body and Bodies issuing; and for want and for want
 of such Issue, then to the Use and Behoof of of such Issue,
 the right Heirs of the said J. S. for ever; to the Heirs
 and as for and concerning the said Term of of J. S. in
 100 Years herein before limited to the said Fee;
 A. D. T. J. W. W. J. S. and J. W. their
 Executors, Administrators and Assigns, It is
 hereby declared and agreed by and between the said Term
 the said Parties to these Presents, that the of 100 Years
 same is so limited to them as aforesaid, upon
 the Trust, and to the Intent and Purpose,
 that they the said A. D. T. J. W. S. W. W.
 J. S. and J. W. and the Survivor of them,
 and the Executors, Administrators and As-
 signs of such Survivor, shall out of the
 Rents, Issues and Profits of the said two
 Closes or Pieces of Land afore-mentioned,
 raise and levy the yearly Sum of 30*l.* of is for raising
 lawful Money of Great Britain, to be paid 30*l.* per Ann.
 into the Hands, and for the sole, proper, pec- for the Use of
 culiar and separate Use and Benefit, of the K. for her
 said K. the Wife of the said J. S. and for private Ex-
 her private Expences and wearing Apparel, pences and
 and with which he the said J. S. or any claim- wearing Ap-
 ing by, from or under him, shall not inter- parel.
 meddle; the same to be paid at the Feasts of
 the Annunciation of the Blessed Virgin Ma-
 ry and St. Michael the Archangel, by equal
 Portions yearly, during the joint Lives of
 them the said J. S. and K. his Wife, and not
 otherwise; and as for and concerning the
 said Term of 500 Years herein before limi- The Term of
 ted to the said A. D. T. J. W. S. W. W. 500 Years
 J. S. and J. W. their Executors, Admini-
 strators and Assigns, it is hereby declared

Of Common Recoveries.

is for raising
1500l. for
Daughter and
younger Chil-
drens Por-
tions, by K.
the now Wife
of J. S.

If K. dies in
the Life-Time
of her Hus-
band without
Issue living at
her Death,
then the Tru-
stees to raise
200l. and
pay the same
after the said
J. K.'s Death
as she by Will
shall appoint.

and agreed upon, by and between the said Parties to these Presents, that the same is so limited to them as aforesaid, that they the said *A. D. T. J. W. S. W. W. J. S.* and *J. W.* and the Survivor and Survivors of them, and the Executors, Administrators and Assigns of such Survivor, shall out of the Rents, Issues and Profits, raise and levy the full Sum of 1500*l.* of lawful Money of Great Britain out of the said Premises so to them limited for the said Term of 500 Years as aforesaid, for the Portion and Provisions of and for the Daughter and younger Child and Children of the said *J. S.* upon the Body of the said *K.* his now Wife lawfully begotten or to be begotten, to be equally divided amongst them, if more than one; and if it so happen the said *K.* the now Wife of the said *J. S.* shall die or depart this Life in the Life-Time of her said Husband, the said *J. S.* without Issue living at her Death, that then the said *A. D. T. J. W. S. W. W. J. S.* and *J. W.* and the Survivor and Survivors of them, and the Executors, Administrators and Assigns of such Survivor, shall stand and be seised of the Premises so limited to them for the Term of 500 Years as aforesaid, for the Raising of any Sum or Sums of Money not exceeding in the whole the Sum of 200*l.* to be paid to such Person and Persons, at such Time and Times, after the Death of the said *J. S.* and in such Manner and Form, as she the said *K. S.* by her last Will and Testament, or any other Writing under her Hand and Seal, shall nominate, limit and appoint: *Provided* always nevertheless, and upon this Condition, and it is hereby declared

' clared and agreed upon, by and between the
 ' said Parties to these Presents, and every of
 ' them, that after the said A. D. 7. J. W. S.
 ' W. W. J. S. and J. W. and the Survivors Proviso for
 ' and Survivor of them, and the Executors, determining
 ' Administrators and Assigns of such Survivor, the said Terms
 ' shall have raised and paid to the said K. Wife of 100 Years
 ' of the said J. S. the yearly Sum of 30l. and 500
 ' *Annum*, during their joint Lives as aforesaid, Years.
 ' and shall have raised the Sum of 1500l.
 ' for the Portion of the said Daughter and
 ' younger Child and Children of the said J.
 ' S. by the said K. his Wife, if any they have;
 ' and in Case the said K. shall happen to die in
 ' the Life-time of her said Husband, without
 ' Issue living at her Death, then after the said
 ' Sum of 200l. shall be raised for the Uses
 ' aforesaid, together with such Charges as shall
 ' be expended in performing the said several
 ' Trusts, that then the said several and respec-
 ' tive Terms of 100 Years and 500 Years
 ' shall respectively cease, determine and be
 ' void; any Thing herein contained to the con-
 ' trary thereof in any wise notwithstanding.
 ' *Provided* always, and it is the true Intent and
 ' Meaning of these Presents and of all the
 ' Parties to the same, that if in Case the said J. S. and E.
 ' K. the Wife of the said J. S. shall happen to S. have a
 ' die without Issue Male, or in Case there shall Power to
 ' be a Failure of Issue Male of the said J. S. make a Join-
 ' by the said K. his Wife, that then it shall ture on their
 ' and may be lawful to and for the said J. S. Wives.
 ' and also to and for the said E. S. as they or
 ' either of them shall be severally seised of
 ' the Freehold of the said Manors of _____
 ' and _____ in Possession, by any Writing
 ' under his, their, or any or either of their
 ' U 3 ' respective

Of Common Recoveries.

Proviso, that if J. S. do assure to E. S. his annual Rent of 30*l.* out of the other Premises, then the aforesaid Rent of 30*l.* to cease.

‘ respective Hands and Seals to be duly executed, to grant, assign, limit or appoint, to
 ‘ or to the Use of any Wife or Wives, that
 ‘ he or they, or either of them, the said J.
 ‘ S. and E. S. being so seised in Possession as
 ‘ aforesaid, shall happen to marry, such Jointure out of the Premises so limited to either
 ‘ of them respectively for Life as aforesaid,
 ‘ or out of any Part or Parcel thereof, not
 ‘ exceeding 120*l.* *per Annum*, for or during
 ‘ the Life or Lives of such Wife or Wives
 ‘ respectively, or either of them, the said J.
 ‘ S. and E. S. being so seised in Possession as
 ‘ aforesaid, shall think fit. *Provided* always
 ‘ nevertheless, and it is the true Intent and
 ‘ Meaning of these Presents and of all the
 ‘ Parties to the same, that if the said J. S. do
 ‘ within five Years next after the Execution of
 ‘ these Presents, by good and sufficient Conveyances and Assurances in the Law, convey
 ‘ and assure unto the said P. S. his Executors,
 ‘ Administrators and Assigns, any Part of the
 ‘ said Premises, or any other Lands or Hereditaments, amounting to the yearly Value
 ‘ of 30*l.* or upwards, for the Term of 99
 ‘ Years, determinable upon the Decease of the
 ‘ longest Liver of the said P. S. A. his Wife,
 ‘ and the said E. their Son, free from all Incumbrances; that then and from thenceforth,
 ‘ and in any such Case, the aforesaid yearly Rent of 30*l.* *per Annum*, hereby and
 ‘ herein before intended or mentioned to be
 ‘ received, and issuing and payable out of all
 ‘ and singular the said Manors, Rectories,
 ‘ Messuages, Tenements, Lands, Hereditaments and Premises, to the said P. S. his
 ‘ Executors, Administrators and Assigns, for
 ‘ such

such Term determinable as aforesaid, shall
 cease, determine and be utterly void, to all
 Intents, Constructions and Purposes whatsoever; any Thing herein before to be contained to the contrary thereof in any wise notwithstanding. And the said J. S. for himself, his Heirs, Executors and Administrators, and the said P. S. for himself, his Heirs, Executors and Administrators, and the said E. S. for himself, his Heirs, Executors and Administrators, and every of them, do hereby severally and not jointly, nor one for another, or for the Acts of the other, or of the Heirs, Executors or Administrators of the other, but for their own Acts only, do covenant, promise and grant, to and with the said A. D. T. J. W. S. W. W. J. S. and J. W. their Heirs, Executors and Administrators, and every of them, by these Presents, that the said Rectory, Advowson, Manors, Messuages, Lands, Tenements, Hereditaments, and all and singular other the Premises hereby granted or mentioned, or intended to be granted as aforesaid, and every Part and Parcel thereof, with all and singular their and every of their Appurtenances now are, and from henceforth for ever hereafter shall remain, continue and be to the said A. D. T. J. W. S. W. W. J. S. and J. W. their Heirs, Executors, Administrators and Assigns, and every of them, to the Uses aforesaid, free and clear, and freely, clearly and absolutely freed, exonerated and discharged of and from all and all Manner of former and other Grants, Bargains, Sales, Estates, Charges, Troubles, Forfeitures and Incumbrances whatsoever,

Covenant that
 Premises are
 free from Incumbrances;

and for further Assurances.

‘ had, made, committed, done, acknowledged
 ‘ or suffered by the said *J. S. P. S. and E. S.*
 ‘ or any of them respectively, or by any other
 ‘ Person or Persons whatsoever, by or with
 ‘ their or either of their respective Means or
 ‘ Procurement. *And* further also, that they
 ‘ the said *J. S. P. S. and E. S.* respectively,
 ‘ and every of them, their and every of their
 ‘ respective Heirs and Assigns, shall and will
 ‘ from Time to Time, and at all and every
 ‘ Time and Times hereafter, at and upon the
 ‘ reasonable Request of the said *A. D. T. J.*
 ‘ *W. S. W. W. J. S. and J. W.* or the Survi-
 ‘ vor of them, or the Heirs, Executors, Ad-
 ‘ ministrators and Assigns of such Survivor,
 ‘ and at the proper Cost and Charges in the
 ‘ Law of the said *J. S.* his Heirs or Assigns,
 ‘ make, do, levy, execute, acknowledge, suf-
 ‘ fer, or cause to be made, done, levied, exe-
 ‘ cuted and suffered, all and every such far-
 ‘ ther and other reasonable Act and Acts,
 ‘ Thing and Things, Assurances and Convey-
 ‘ ances in the Law whatsoever, for the better,
 ‘ further and more perfect Assurance, Sure-
 ‘ making, Establishing, and Confirming of the
 ‘ said Advowson, Rectory, Manors, Messuages,
 ‘ Lands, Tenements, Hereditaments and all
 ‘ and singular other the Premises hereby
 ‘ granted or mentioned to be granted, or any
 ‘ of them, and of every or any Part or Parcel
 ‘ thereof, with all and singular their and every
 ‘ of their Appurtenances, unto the said *A. D.*
 ‘ *T. J. W. S. W. W. J. S. and J. W.* and the
 ‘ Survivor of them, and the Heirs and As-
 ‘ signs of such Survivor, to the several and
 ‘ respective Uses, Intents and Purposes afore-
 ‘ said, subject to the said Trusts, Provisoos,
 ‘ Powers

‘ Powers and Contingencies herein mentioned,
 ‘ expressed and declared, be it by Fine or
 ‘ Fines, Feoffment or Feoffments, Deed or
 ‘ Deeds indented or not indented, inrolled or
 ‘ not inrolled, Common Recovery or Recove-
 ‘ ries, with single, double or treble Voucher
 ‘ or Vouchers, Release or Confirmation, or by
 ‘ all and every, or any of the said Ways and
 ‘ Means, or by any other Ways and Means
 ‘ in the Law whatsoever, as the said *A. D.*
 ‘ *T. J. W. S. W. W. J. S.* and *J. W.* or the
 ‘ Survivor of them, and the Heirs and Af-
 ‘ signs of such Survivor, or any of their Coun-
 ‘ sel learned in the Law, shall reasonably de-
 ‘ vise, advise or require. *In Witness* whereof
 ‘ the said Parties to these Presents their Hands
 ‘ and Seals interchangeably, &c.’

*Another Deed of Settlement with special
 Covenants.*

‘ **T** HIS Indenture tripartite, made the —
 ‘ Day of — in the — Year of
 ‘ the Reign of our Sovereign Lord George
 ‘ the Second by the Grace of God, King of
 ‘ Great Britain, France and Ireland, Defender
 ‘ of the Faith, &c. and in the Year of our
 ‘ Lord one thousand seven hundred and —
 ‘ Between *J. S.* of — in the County of —
 ‘ Esq; and *M.* his Wife of the first Part, the
 ‘ Reverend *S. D.* Clerk, Rector of — in
 ‘ the said County of — of the second Part,
 ‘ and *T. A.* of — in the County of —,
 ‘ Esq; and the Reverend *J. D.* Son and Heir
 ‘ apparent of him the said *S. D.* of the third
 ‘ Part: *Whereas* by Indenture or Deed tripar-
 ‘ tite

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' tics bearing Date the 26th Day of May,
 ' which was in the Year of our Lord one
 ' thousand seven hundred and thirty-six, and
 ' made or mentioned to be made between the
 ' said J. S. and C. his then Wife since deceased,
 ' P. S. Gentleman, E. S. Son and Heir appa-
 ' rent of the said P. S. of the first Part, A. D.
 ' Esq; T. J. W. S. W. W. J. S. and J. W.
 ' Gentleman, of the second Part, and M. W.
 ' Widow and Relict of S. W. Gentleman, de-
 ' ceased, of the third Part, and by a Fine le-
 ' vied in Pursuance of the said Deed, All those
 ' the two several Manors or Lordships, or re-
 ' puted Manors of — and — in the said
 ' County of — with their Royalties,
 ' Rights, Members and Appurtenances there-
 ' unto severally belonging or appertaining, and
 ' all that capital Messuage or Mansion-House
 ' called the Hall of —, and all other the
 ' Messuages, Lands, Tenements and Heredi-
 ' taments, situate, lying and being in — and
 ' — aforesaid or either of them, then in
 ' the Holding of the said J. S. R. P. M. P.
 ' J. E. and J. A. their Assigns or Uder tenants,
 ' whereof or wherein the said J. S. then had or
 ' ought to have any Estate or Inheritance in
 ' Possession, Reversion, Remainder or Expec-
 ' tancy, are and stand limited (amongst other
 ' Uses) for a Term of 99 Years, if the said
 ' P. S. A. his Wife, and the said E. S. or any
 ' of them, should so long live, to the Intent
 ' and Purpose, that from and after the Exe-
 ' cution of the same Indenture he the said P.
 ' S. his Executors, Administrators and As-
 ' signs, should thenceforth yearly and every
 ' Year, during the said Term of 99 Years de-
 ' terminable as aforesaid, have and take to
 ' his

' his and their own Use and Uses the yearly
 ' Sum of 30*l.* to be yearly issuing out of all
 ' and singular the said Manors and Premises
 ' in the same Indenture mentioned, subject to
 ' all Taxes and other incident Charges; the se-
 ' veral yearly Rents payable thereout to the
 ' Dean and Chapter of the Cathedral Church
 ' of ———, and to Sir R. G. Baronet, only
 ' excepted, and payable to the said P. S. his
 ' Executors, Administrators and Assigns, at
 ' such Days and Times, and in such Manner
 ' as is therein mentioned, with a Power of
 ' Distress for Nonpayment thereof, or any
 ' Part thereof, and subject to the Rent-Charge
 ' aforesaid, and other Provisions therein men-
 ' tioned, the said Manors and Premises in
 ' ——— and ——— aforesaid, with their and
 ' every of their Appurtenances (the little Hall
 ' in ———, with the Lands thereto belonging
 ' only excepted) are and stand limited and set-
 ' tled to the Use of the said J. S. for Life,
 ' without Impeachment of Waste, with Power
 ' to do and commit Waste, with Remainder
 ' thereof to Trustees therein named and their
 ' Heirs, to preserve contingent Remainders du-
 ' ring the Life of the said J. S. with Remain-
 ' der thereof to the first and every other Son
 ' of the said J. S. on the Body of the said C.
 ' his then Wife, severally and successively in
 ' Tail Male; the Elder of such Son and Sons,
 ' and the Heirs Males of his and their Body
 ' and Bodies, being always to be preferred
 ' and take before the younger of such Son
 ' and Sons, and the Heirs Males of his and
 ' their Body and Bodies lawfully issuing, Re-
 ' mainder thereof to the first and every other
 ' Son and Sons of the said J. S. on the Body
 ' of

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of any second or other Wife lawfully to be
 begotten, severally and successively in Tail
 Male; the Elder of such Son and Sons, and
 the Heirs Males of his and their Body and
 Bodies lawfully issuing, being always to be
 preferred and take before the Younger of
 such Son and Sons, and the Heirs Males of
 his and their Body and Bodies lawfully iss-
 uing; and for Default of such Issue, then to
 the Use and Behoof of the said P. S. for the
 Term of his natural Life, with Remainder
 to the said E. S. for the Term of his natural
 Life, Remainder thereof to the first and eve-
 ry other Son and Sons of the Body of the
 said E. S. lawfully to be begotten, severally
 and successively in Tail Male; the Elder of
 such Son or Sons, and the Heirs Males of
 his and their Body and Bodies lawfully is-
 suing, being always to be preferred and take
 before the Younger of such Son and Sons,
 and the Heirs Males of his and their Body
 and Bodies lawfully issuing; and for Default
 of such Issue, then to the Use and Behoof of
 the right Heirs of the said J. S. for ever, as
 in and by the said recited *Indenture* tripar-
 tite (among other Things therein contained)
 Relation being thereunto had, may more
 fully appear. *And whereas* the said C. (late
 Wife of the said J. S.) after the Execution of
 the said before in Part recited *Indenture* tri-
 partite departed this Life without Issue, and
 the said J. S. hath since her Decease inter-
 married with the said M. his now Wife:
Now this Indenture Witnesseth, That for and
 in Consideration of the said Marriage had
 and solemnized between the said J. S. and
 the said M. his now Wife, and for settling
 the

the said Manors, Messuages, Lands, Tenements and Hereditaments, herein before and herein after mentioned, upon such Trusts, to and for such Uses, Intents and Purposes, and in such Sort, Manner and Form, as is herein after mentioned, expressed and declared, of and concerning the same respectively, and in Consideration of the Sum of 700*l.* of good and lawful Money of *Great Britain* to him in Hand paid as Part of the Marriage Portion of the said *M.* by the said *S. D.* Father of the said *M.* at and before the Sealing and Delivery of these Presents, the Receipt whereof the said *J. S.* doth hereby acknowledge, and thereof and of every Part and Parcel thereof, doth hereby release, acquit, exonerate and for ever discharge the said *S. D.* his Heirs, Executors and Administrators, and also in Consideration of the further Sum of 300*l.* of like good and lawful Money of *Great Britain*, being the Residue of the Marriage Portion of the said *M.* secured to be paid by the Heirs and Executors or Administrators of the said *S. D.* within one Year next after the Death of the said *S. D.* upon the Trust mentioned concerning the same, in and by certain Articles of Agreement bearing Date the 20th Day of *April* which was in the Year of our Lord 1734, and made or mentioned to be made between the said *J. S.* on the one Part, and the said *S. D.* of the other Part, and in Pursuance and Part of Performance of the said Articles of Agreement, and for divers other good Causes and valuable Considerations him the said *J. S.* hereunto moving, he the said *J. S.* hath granted, bargained and

gained,

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' gained, sold and aliened, released and con-
 ' firmed, and by these Presents doth grant,
 ' bargain, sell, alien, release and confirm unto
 ' the said T. A. and J. D. (in their actual Pos-
 ' session now being, by Virtue of one Inden-
 ' ture of Bargain and Sale for one Year to
 ' them thereof made by the said J. S. by In-
 ' denture bearing Date the Day next before
 ' the Day of the Date of these Presents, and
 ' by Force of the Statute made for Transferring
 ' of Uses into Possession) and to their
 ' Heirs, *All* those the said two several Manors
 ' or Lordships, or reputed Manors or Lord-
 ' ships of ——— and ———, with their Royal-
 ' ties, Rights, Members and Appurtenances
 ' thereunto severally belonging or appertain-
 ' ing, *And all* that the said Capital Messuage
 ' or Mansion-House, called the Hall of ———,
 ' and all that Messuage or Tenement with the
 ' Appurtenances, called the little Hall of
 ' ———, situate, lying and being in ———
 ' aforesaid, with the Lands thereunto belong-
 ' ing, and all other the said Messuages, Lands,
 ' Tenements and Hereditaments, situate, ly-
 ' ing and being in ——— and ——— afore-
 ' said or either of them, which in the said be-
 ' fore in Part recited *Indenture* tripartite were
 ' mentioned to be then in Holding of the
 ' said J. S. R. P. M. P. J. E. and J. A. their
 ' Assigns or Undertenants, whereof or wherein
 ' the said J. S. at the Time of the Execution
 ' of the said before in Part recited *Indenture*
 ' tripartite, had or ought to have, or now
 ' hath any Estate of Inheritance in Possession,
 ' Reversion, Remainder or Expectancy, and
 ' also all and every the Messuages, Lands,
 ' Tenements, Rents and Hereditaments of
 ' him

him the said *Y. S.* whereof or wherein he is
seised of any Estate of Inheritance in Posses-
sion, Reversion, Remainder or Expectancy,
situate, lying and being in ———, other-
wise called ——— on the Hill, or elsewhere
in the said County of ——— (one Messuage
or Tenement in ——— aforesaid, called
——— Tenement, with the Lands, Here-
ditaments and Appurtenances thereunto be-
longing in ——— aforesaid, now or late in the
Possession or Occupation of *R. S.* and *L. E.*
or one of them, their or one of their Assigns
or Undertenants, one Chief or other Rent of
8l. per Annum issuing and payable out of
the Lands now or late of *R. M.* of ——— in
the said County of ———, and also one chief
or other Rent of *7l. per Annum* issuing and
payable out of the Lands now or late of *M.*
B. of *S.* in the same County, only and al-
ways excepted and foreprized out of these
Presents,) and all Houses, Outhouses, Edi-
fices, Buildings, Barns, Stables, Orchards,
Gardens, Yards, Lands, Tenements, Mea-
dows, Leasows, Pastures, Feedings, Com-
mons, Woods, Underwoods, Ways, Waters,
Watercourses, Profits, Commodities, Advan-
tages, Emoluments and Hereditaments what-
soever to the said Manors or Lordships, or re-
puted Manors or Lordships, Messuages, Lands
and Premisses, hereby granted or released, or
mentioned, or intended to be hereby granted
and released, or any of them belonging or in
any wise appertaining, or therewith or with
any of them now or any Time heretofore
had, held, used, occupied or enjoyed, or ac-
cepted, reputed, taken and known as Part,
Parcel or Member thereof or of any Part
thereof,

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thereof, and the Reversion and Reversions,
 Remainder and Remainders yearly, and
 other Rents, Issues and Profits of all and
 singular the said Premisses, (except as here-
 by before is excepted) and all the Estate,
 Right, Title, Interest, Trust, Property, Claim
 and Demand whatsoever of him the said J.
 S. of, in and to the same Manors and Pre-
 misses hereby granted or released, or men-
 tioned or intended to be hereby granted and
 released, and of, in or unto any Part or
 Parcel thereof; *To Have and to Hold* the said
 Manors or Lordships, or reputed Manors
 or Lordships, Messuages, Lands, Tenements,
 Rents, Hereditaments, and all and singular
 other the said Premisses, with their and eve-
 ry of their Appurtenances, and every Part
 and Parcel thereof, (except as hereby before
 is excepted) unto them the said T. A. and
 J. D. their Heirs and Assigns for ever, to
 such Uses, upon such Trusts, and to and for
 such Intents and Purposes, and with and
 under such Provisoos, Limitations and Agree-
 ments, as are herein after expressed and de-
 clared of and concerning the same respec-
 tively, that is to say, as for and concerning
 all those the said two several Manors or
 Lordships, or reputed Manors or Lordships
 of ——— and ——— with their Royalties,
 Rights, Members and Appurtenances there-
 unto severally belonging or appertaining, and
 the said Capital Messuage or Mansion House,
 called the Hall of ———, and all other the
 said Messuages, Lands, Tenements and He-
 reditaments herein before mentioned to be
 situate, lying and being in ——— and ———
 aforesaid, or either of them (other than and
 except

except the said Messuage or Tenement called
 the little Hall of ———, with the Lands
 thereunto belonging) with their and every
 of their Appurtenances, subject to the Estate
 thereof limited to the said J. S. for and du-
 ring the Term of his Life, in and by the
 said before in Part recited Indenture tripar-
 tite, and also subject to the several Estates
 thereby also limited to the first and other
 Son and Sons of the Body of the said J. S.
 and to the said P. S. and E. S. and to the first
 and other Son and Sons of the Body of the
 said E. S. respectively as aforesaid; and for
 Default of, or upon Failure of Issue Male of
 the Body of the said J. S. and also for De-
 fault or upon Failure of Issue Male of the
 Body of the said E. S. then to the Use and
 Behoof of all and every the Daughter and
 Daughters of the Body of the said J. S. upon
 the Body of M. his Wife lawfully begotten
 or to be begotten, and the Heirs of the
 Body and Bodies of all and every such
 Daughter and Daughters lawfully issuing;
 such Daughters to take as Tenants in Com-
 mon, and not as Joint-tenants in any wise;
 and for Default of such Issue, then to the
 Use and Behoof of the Survivor of them
 the said J. S. and M. his Wife, and the
 Heirs and Assigns of such Survivor for ever:
 And as to, for and concerning the said Mes-
 suage or Tenement with the Appurtenances,
 called the little Hall of ———, with the
 Lands thereunto belonging, and all and
 every the said Messuages, Lands, Tene-
 ments, Rents, Hereditaments of him the
 said J. S. situate, lying and being in ———
 aforesaid or elsewhere, in the said County

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of ———, (except the said Messuage or
 Tenement called ———, with the Lands,
 Hereditaments and Appurtenances thereunto
 belonging in ——— aforesaid, and also ex-
 cept the said two several Chief or other
 Rents of 8*l.* and 7*l.* *per Annum* herein be-
 fore mentioned and excepted,) to the Use
 and Behoof of the said *J. S.* for and during
 the Term of his natural Life, without Im-
 peachment of or for any Manner of Waste;
 and from and after the Determination of
 that Estate, to the Use and Behoof of the
 said *T. A.* and *J. D.* and their Heirs, during
 the natural Life of the said *J. S.* upon Trust
 to support and preserve the contingent Uses
 and Estates herein after limited from being
 barred, defeated or destroyed, and for that
 Purpose to make Entries or bring Actions,
 as Occasion shall require; yet nevertheless to
 permit and suffer the said *J. S.* and his As-
 signs to receive and take the Rents, Issues
 and Profits thereof, during the Term of his
 natural Life, and from and after the De-
 cease of the said *J. S.* to the Use and Behoof
 of the said *T. A.* and *J. D.* their Execu-
 tors, Administrators and Assigns, for and du-
 ring the Term of 2000 Years from thence
 next ensuing and fully to be compleat and
 ended, without Impeachment of or for any
 Manner of Waste, upon and subject to the
 several Trusts, Limitations and Agreements
 herein after mentioned, expressed and de-
 clared of and concerning the same Term
 and Estate; and from and after the End and
 Expiration, Surrender or sooner Determina-
 tion of the said Term and Estate of 2000
 Years, then to the Use and Behoof of the
 first

first Son of the Body of the said J. S. begotten or to be begotten, and the Heirs Males of the Body of such first Son lawfully issuing; and for Default of such Issue, then to the Use and Behoof of the 2d, 3d, 4th, 5th, 6th, 7th, and all and every other Son and Sons of the Body of the said J. S. begotten or to be begotten, severally and successively, and in Remainder one after another, as they and every of them shall be in Seniority of Age and Priority of Birth, and of the several and respective Heirs Males of the Body and Bodies of all and every such Son and Sons lawfully issuing; the Elder of the said Sons and the Heirs Males of his Body lawfully issuing, to be preferred and take before the Younger of such Son and Sons, and the Heirs Male of his and their Body and Bodies lawfully issuing; and for Default of such Issue, to the Use and Behoof of all and every the Daughter and Daughters of the Body of the said J. S. on the Body of the said M. his Wife begotten or to be begotten, and the Heirs of the Body and Bodies of all and every such Daughter and Daughters lawfully issuing; such Daughters to take as Tenants in Common and not as Jointenants; and for Default of such Issue, to the Use and Behoof of the Survivor of them the said J. S. and M. his Wife, and the Heirs and Assigns of such Survivor for ever, and to or for no other Use, Intent or Purpose whatsoever: And as for and concerning the said Term of 2000 Years herein before limited to the said T. A. and J. D. their Executors, Administrators and Assigns, it is hereby declared

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and agreed by and between the said Parties
to these Presents, that the same Term is so
limited to them as aforesaid, upon the Trusts,
and to and for the Intents and Purposes, and
with and under the Provisoos and Agree-
ments herein after expressed and declared of
and concerning the same, that is to say, In
Case the said J. S. shall happen to have Is-
sue by the said M. his Wife one Son, and
also one or more Daughter or Daughters,
younger Son or Sons, living at the Time of
his Decease, or born in due Time afterwards,
or in Case he shall only have a Daughter or
Daughters by the said M. his Wife, and a
Son or Sons by any other after-taken Wife
whom he shall happen to marry after the
Decease of the said M. then upon Trust that
they the said T. A. and J. D. or the Survi-
vor of them, or the Executors, Administra-
tors or Assigns of such Survivor, shall ap-
ply the Rents, Issues and Profits of the said
Messuage or Tenement called the little Hall
of ———, and of the said Lands thereunto
belonging, and of the said several Mes-
suages, Lands, Tenements and Heredita-
ments, and Premises in ——— aforeaid,
(except as before excepted) or so much
thereof as they or the Survivor of them, or
the Executors or Administrators of such
Survivor shall in his or their Discretion think
fit, (Regard being had to the Number of
Daughter or Daughters, younger Son or
Sons) for the Maintenance, Education and
Bringing up of such Daughter or Daughters,
younger Son or Sons of the Body of the
said J. S. upon the Body of the said M. be-
gotten or to be begotten, till his, her or their
respective

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' respective Age or Ages of 21 Years, or Day
 ' or Days of Marriage, which shall first hap-
 ' pen, or for the Putting out of any such
 ' younger Son or Sons of the Body of the said
 ' J. S. upon the Body of the said M. his Wife
 ' begotten or to be begotten, to any Employ-
 ' ment or Business; and also upon further
 ' Trust, that they the said T. A. and J. D. or
 ' the Survivor of them, or the Executors or
 ' Administrators of such Survivor, shall by
 ' Leasing, Sale or Mortgage of the said Term
 ' of 2000 Years of and in the said Messuages,
 ' Lands, Tenements, Hereditaments and Pre-
 ' mises To limited to them as aforesaid, or of
 ' a competent Part thereof, levy and raise such
 ' Sum and Sums of Money as are herein after
 ' mentioned for the Portion of such Daughter
 ' or Daughters, younger Son or Sons of the
 ' Body of the said J. S. upon the Body of the
 ' said M. his Wife begotten or to be begot-
 ' ten, that is to say, In Case he shall have a
 ' Son by the said M. and also only one such
 ' Daughter, or only one younger Son and no
 ' Daughter by her, then the Sum of 800*l*.
 ' shall be levied and raised for the Portion of
 ' such only Daughter or younger Son by the
 ' said M. and in Case he shall have one such
 ' Son by the said M. and there shall be two
 ' or more such Daughters or younger Sons, and
 ' one such Daughter or one such younger Son
 ' by the said M. then the Sum of 1200*l*. shall
 ' be levied and raised for the Portion of such
 ' Daughter or Daughters, younger Son or
 ' Sons by the said M. to be equally divided
 ' between or amongst them; and in Case the
 ' said J. S. shall have no Issue Male by the said
 ' M. but shall have Issue Male by any after-

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taken Wife, and also one or more Daughter
 or Daughters by the said *M.* then the Sum
 of 1000*l.* shall be levied and raised, and
 paid to such only Daughter, or if more than
 one, then the Sum of 1500*l.* shall be levied
 and raised, and paid to and equally divided
 between or amongst such Daughters, which
 said Portion or Portions shall be paid to such
 Daughter or Daughters, younger Son or
 Sons, as shall be under Age and unmarried
 at the Time of the Death of the said *J. S.*
 at his or their respective Age or Ages of 21
 Years, or Day or Days of Marriage, which
 shall first happen; but if they or any of
 them shall have attained to full Age or be
 married in the Life-time of the said *J. S.*
 then the Portion or Portions of such Daugh-
 ter or Daughters, younger Son or Sons, who
 shall have so attained their full Age or be
 married, shall be paid to him, her or them
 respectively within one Year next after the
 Death of the said *J. S.* *Provided* always, that
 in Case any of the said Children shall happen
 to die before their Portions shall become pay-
 able as aforesaid, then the Portion or Por-
 tions of him, her or them so dying, shall go
 and be paid unto or be equally divided
 among the Survivors or Survivor of them,
 at such Time as the original Portion or Por-
 tions of such surviving Child or Children
 shall become payable as aforesaid: *Provided*
 also, that in Case all and every the said Child
 or Children shall happen to die before their
 or any of their said Portions shall become
 payable as aforesaid, then the said several
 and respective Sums of Money appointed to
 be raised for their Portions as aforesaid, be-
 ing

ing raised, or so much thereof as shall be then raised, shall be paid unto the Person or Persons to whom the next and immediate Reversion or Remainder of the same Premises, expectant upon the said Term of 2000 Years, shall for the Time being belong or appertain; and then also the same several and respective Sums of Money, or so much thereof as shall not be then raised shall not be raised, but shall cease for the Benefit of the same Person or Persons in Reversion or Remainder as aforesaid; and upon this further Trust, that they the said T. A. and J. D. or the Survivor of them, his Executors, Administrators or Assigns, shall and do from Time to Time (in the mean Time and until such Mortgage or Sale shall be made of the said Term of 2000 Years) dispose and pay the Residue and Overplus of the Rents and Profits of the same Premises over and above so much thereof as shall be paid to and for the respective Maintenance and Education of the said Child or Children, (not being inheritable as aforesaid) unto such Person or Persons who shall be next in Reversion or Remainder of the said Term of 2000 Years: *Provided* always, that the said T. A. and J. D. or the Survivor of them, or his Executors, Administrators or Assigns, shall not sell or mortgage any Part of the said Messuages, Lands, Tenements and Premises so limited to them for the said Term of 2000 Years as aforesaid, until some one of the said Portions shall become payable as aforesaid: *Provided* also, that in Case the said J. S. shall advance any such Child or Children in Marriage with any Portion or

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Portions in his Life-time, or shall give or,
 leave at his Death any Portion or Portions,
 Sum or Sums of Money, to or for such
 Child or Children, then and in such Case
 such Portion or Portions, Sum or Sums of
 Money, shall be accounted as and for so
 much of the Portion or Portions herein be-
 fore provided or intended for such Child or
 Children, by Virtue of the Trusts of the
 said Term of 2000 Years, unless the said
 J. S. shall declare to the contrary under his
 Hand: *Provided* also, and it is hereby fur-
 ther declared and agreed, by and between
 all the said Parties to these Presents, that
 in Case there shall be no Child or Chil-
 dren of the Body of the said J. S. on the
 Body of the said M. begotten or to be be-
 gotten, (other than such Issue Male or Fe-
 male as shall for the Time being be imme-
 diately inheritable by Virtue of the Limita-
 tions aforesaid) or there being such Child or
 Children, all of them shall happen to die
 before their or any of their said Portions
 shall become payable as aforesaid, (or in Case
 the Money appointed to be raised for such
 Child or Children's Portion or Portions re-
 spectively as aforesaid, and also such Main-
 tenance in the mean Time and until such
 Portion or Portions shall become payable as
 aforesaid, shall be by the said T. A. and J.
 D. or the Survivor of them, his Executors,
 Administrators or Assigns, raised and levied
 by the Ways and Means in that Behalf be-
 fore mentioned, then and in any of the said
 Cases, (the Trustees Charges of the Execu-
 tion of the same Trusts relating to the said
 Term of 2000 Years being fully defrayed
 and

and satisfied) the said Term of 2000 Years, or so much thereof as shall remain undisposed for the Purposes aforesaid, shall cease, determine and be utterly void; any Thing herein contained to the contrary thereof in any wise notwithstanding: *Provided* also, and it is hereby further declared to be the true Intent and Meaning of these Presents, and of all the Parties hereunto, that the said T. A. and J. D. or either of them, their or either, or any of their Heirs, Executors or Administrators, shall be charged and chargeable with, and answerable and accountable for, such Money only which by Virtue of any of the Trusts herein before vested in them respectively, shall actually come to their Hands, or to the Hands of any other Person or Persons, by their or any of their Orders or Directions, and with and for no more, nor the one of them for the other of them, or for any Acts, Deeds, Receipts or Disbursements of the other of them, but only for each and every of their own respective Acts, Deeds, Receipts and Disbursements, nor with or for the Loss or Miscarriage of any such Money, which shall happen without their respective wilful Default: *Provided* always, that it shall and may be lawful to and for the said J. S. from Time to Time, and at all Times during his Life, by Indenture under his Hand and Seal, to demise or lease any Part of the said Manors, Lordships, Messuages, Lands, Tenements, Hereditaments and Premises, for any Term or Number of Years not exceeding 41 Years, in Possession and not in Reversion, Remainder or Expectancy, so as upon every such Lease to be

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be made as aforesaid, there be reserved the
 best and most yearly Rent that can be reason-
 ably had or obtained for the same, without
 taking any other Sum or Sums of Money,
 or any other Thing, by way of Fine or In-
 come for or in respect of any such Lease or
 Leases, and so as none of the said Leases be
 made dispunishable of Waste, and so as there
 be contained in every such Lease, so to be
 made as aforesaid, Clauses of Re-entry for
 the Non-payment of Rent or Rents to be
 thereby reserved; and so as the respective
 Lessee and Lessees of such Lease and Leases
 seal and execute Counterparts of such Lease
 and Leases: *Provided* also, and it is hereby
 further declared and agreed, by and between
 all and every the said Parties to these Pre-
 sents, that it shall and may be lawful to
 and for the said J. S. from Time to Time,
 and at all Times during his natural Life, by
 Indenture under his Hand and Seal, to de-
 mise and lease all or any such Part or Parts
 of the said Manors, Messuages, Lands, Te-
 nements and Hereditaments and Premisses,
 (as now are, or within the Space of 99 Years
 last before the Date of these Presents, have
 been accustomed to be let, and whereof Fines
 have been usually taken) to any Person or
 Persons for one, two or three Life or Lives,
 or for any Term or Number of Years deter-
 minable on any one, two or three Life or
 Lives, so as such Lease or Leases for Lives
 or Years determinable on Lives, together
 with any other Lease or Leases then in Being
 of the said Premisses, exceed not, and be all
 determinable upon, three concurrent Lives at
 the most, and so as upon every such last men-
 tioned

tioned Demise or Lease, whether for Life or Lives, or Years, to be made as aforesaid, there be reserved and made payable, during the Continuance of every such Lease and Leases, Demise and Demises, to be incident to and go along with the Reversion of the said Premises, such or as great yearly Rent or Rents, and other Duties and Services respectively, as is or are now reserved or payable for such Part or Parts of the Premises, or as was or were reserved or payable for such Part or Parts of the said Premises as are now in Possession, when the same were respectively last letten, or proportionable thereto, and so as such Lease or Leases be not made dispunishable of Waste, and so as the respective Lessee and Lessees of such last mentioned Lease or Leases seal and execute Counterparts of such Lease and Leases respectively: *And* the said *J. S.* for himself, his Heirs and Assigns, doth hereby covenant, promise and grant, to and with the said *T. A.* and *J. D.* their Heirs and Assigns in Manner and Form following, (that is to say) That he the said *J. S.* at the Time of the Sealing and Delivery of these Presents, hath good Right, full Power, and lawful and absolute Authority to settle and convey all and singular the Manors, Messuages, Lands, Tenements, Hereditaments and Premises hereby granted or released, or mentioned or intended so to be, with their and every of their Appurtenances, to the several Uses, and upon the several Trusts, and under and subject to the several Provisoos and Agreements herein before mentioned and contained of and concerning the same respectively,

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' respectively, and that the same shall and
 ' may at all Times hereafter be lawfully and
 ' peaceably held and enjoyed, according to
 ' the Purport, true Intent and Meaning of
 ' these Presents, and that free and clear, and
 ' freely and clearly, and absolutely acquitted
 ' and discharged, or otherwise by the said Y.
 ' S. from Time to Time, and at all Times
 ' for ever hereafter, well and sufficiently saved
 ' harmless and kept indemnified of and from
 ' all and all Manner of former and other Gifts,
 ' Grants, Bargains, Sales, Mortgages, Uses,
 ' Jointures, Dowers, Titles, Troubles, For-
 ' feitures, Charges, Burthens, Incumbrances,
 ' Claims and Demands whatsoever, (all Estates
 ' and Leases heretofore made of the said Pre-
 ' misses, or any Part thereof, by M. D. Esq;
 ' and E. his Wife, late Mother of the said
 ' Y. S. or by any other of his Ancestors, and
 ' the several yearly Rents payable to the said
 ' Dean and Chapter of the Cathedral Church
 ' of ——— and to Sir R. G. Baronet, and also
 ' the Jointure limited and appointed to the
 ' said M. by the said Y. S. in and by one Deed
 ' Poll bearing Date the Day next before the
 ' Day of the Date of these Presents, only ex-
 ' cepted and foreprized); And moreover, that
 ' the said Y. S. and his Heirs, and all and
 ' every Person and Persons having or lawfully
 ' claiming, or which shall or may have or
 ' lawfully claim, any Estate, Right, Title,
 ' Trust or Interest of, in, to or out of the said
 ' Mannors, Messuages, Lands, Tenements, He-
 ' reditaments and Premises hereby granted or
 ' released, or mentioned or intended so to be,
 ' or any Part thereof, (other than except the
 ' said P. S. E. S. and the Issue Male of the
 ' said

said E. S. for and in respect only of the Re-
 mainders limited to them in and by the said
 before in Part recited Indenture tripartite
 as aforesaid, as also other than and except
 the Persons claiming the several Rents, and
 also the Persons claiming under the Estates
 and Leases herein before excepted, for and
 in respect only thereof shall and will at any
 Time or Times hereafter, upon the reason-
 able Request of the said T. A. and J. D.
 either of them, their or either of their Heirs
 or Assigns, but at the proper Costs of the
 said J. S. his Heirs and Assigns, make, do
 acknowledge, levy, suffer and execute, ori-
 cause and procure to be made, done, ac-
 knowledged, levied, suffered and execu-
 red unto the said T. A. and J. D. and their
 Heirs, or to the Survivor of them and his
 Heirs, all and every such further and other
 lawful and reasonable Act and Acts, Deed
 and Deeds, Conveyance and Conveyances,
 Fine and Fines, Recovery and Recoveries,
 and other Assurances whatsoever, for the fur-
 ther, better and more safe, sure and absolute
 Granting and Conveying, Settling and As-
 suring all and singular the said Manors, Mes-
 suages, Lands, Tenements, Hereditaments and
 Premises, unto and upon the said T. A. and
 J. D. their Heirs and Assigns, to and for
 the several and respective Uses, Limitations,
 Trusts, Intents and Purposes, and subject to
 the Provisoes and Agreements herein before
 limited, declared or expressed concerning
 the same respectively, as by the said T. A.
 and J. D. and their Heirs, or their Counsel
 learned in the Law, shall be reasonably devi-
 sed, advised or required. *In Witness* where-
 of the said Parties to these Presents, &c.

Of

Of Common Recoveries by Baron and Feme.

BARON seised in Fee devises Lands to his Wife and the Heirs of her Body, who afterwards marries a second Husband, and suffers a Common Recovery, and by Indentures declared the Uses to a second Husband for Life, afterwards to herself for Life, Remainder to the Heirs of the Survivor; the Wife survived, and afterwards marries a third Husband, and settled that Estate to him in Fee, and died without Issue, and the Recovery by the Wife held good notwithstanding the Statute 11 H. 7. c. 20. *Hughes vers. Clubb* and others, *Comyns* 369.

The Law does not favour Coverture so much as Infancy; and where Husband and Wife are equally seised and take by Entireties, and both suffer a Recovery, the Recovery is good; but in this Case the Husband alone can't make a Tenant to the *Præcipe*. 1 *Ld. Raym.* 43. *Comyns* 564. But a Man seised in Right of his Wife may alone make a good Tenant to the *Præcipe*. *Ibid.*

And it is said that a Feme Tenant in Tail and her Husband cannot make a Tenant to the *Præcipe* without a Fine. *Equity Cases* 167.

A Common Recovery suffered by Husband and Wife bars the Wife of Dower.

If Lands are given to Husband and Wife, and the Heirs of the Body of the Husband, Remainder to a Stranger, and the Husband discontinues by Fine or Feoffment, or grants the Land by Lease and Release, or Deed of Bargain and Sale inrolled, and a Writ of Entry is brought against Conusee, Feoffee or
 Grantee

Grantee, and he vouches the Husband alone, who vouches the common Vouchee; this is a good Common Recovery, and bars the Estate-Tail and all Remainders, but not the Wife's Estate; and the Reason is, there is a good Tenant to the *Præcipe*, and the Husband comes in as Vouchee of all Estates he ever had. *Pigott 67.*

If Baron and Feme be Jointenants after the Coverture, and they together suffer a Common Recovery, this will bind them.

But if Lands are given to Husband and Wife and the Heirs of their two Bodies, with Remainder over, and the Baron alone discontinues and suffers a Common Recovery, this will not bar the Entail or Remainders, for the Wife having a joint Estate of Inheritance with her Husband, the Recompence must follow the Estate, and a Recompence which goes to a sole Estate cannot extend to a joint Estate. *Pigott 68.*

Where Lands are given to Baron and Feme and the Heirs of the Body of the Wife, or to the Wife and the Heirs of her Body, and the Writ of Entry is brought against both, and they vouch the Common Vouchee; this is a good Recovery.

So if a Man has Lands in which his Wife has a Jointure, or to which she will have Title of Dower, and a Writ of Entry be brought against both, and they vouch the common Vouchee, this Recovery bars her, but not if the Writ of Entry be brought against Husband alone without the Wife, for she may falsify and avoid it after his Death. *Plowd. 514.*

If Husband be seised in Right of his Wife for Life, Remainder in Tail to A. Remainder over

Of Common Recoveries.

over to *B.* and the Husband grants the Land to another (by Bargain and Sale inrolled, or by Lease and Release) against whom a *Præcipe* is brought, who vouches *A.* and a Common Recovery is thereupon had; and this is a good Recovery, and bars all the Remainder and Entail. 2 Roll's Abr. 394.

If Husband be Tenant in Tail, the Remainder to the Wife in Tail, and he suffers a Common Recovery of the Land; this bars the Wife.

If Husband and Wife be seised for Life, Remainder to the Heirs Male of the Body of the Husband, Husband discontinues, and a *Præcipe* is brought against the Discontinuee, who vouches the Husband, who vouches the common Vouchee; this is a good Recovery, Pigott 39.

If a Woman that has an Estate in Dower for Life, or in Tail, jointly with her Husband, or only to herself, or to her Use, in any Lands, &c. of the Inheritance or Purchase of her Husband, or given to the Husband and Wife by the Husband's Ancestors, or any seised to the Use of the Husband or his Ancestors, do, after the Husband's Death, sole, or with another Husband suffer a Recovery of it, it shall be void; and he, to whom the Land ought to belong after the Death of the said Woman, may enter; and yet if in this Case she doth it with the Consent of the next Heir, or shall join with him, that is a good Recovery; or if the Writ be brought against her, and she vouch the Heir in Tail, and so the Recovery is had. Stat. 11 H. 7. 20.

If a Mortgagee suffer a Recovery, this will not bind the Mortgagor; but if the Mortgagor

See the Case of Hughes and Clubb before-mentioned.

gor be a Party to the Recovery, the Recovery will be good. 2 *Cro.* 592, 593.

Note; The Intent of the 11 *H.* 7. c. 20. was not only to save the Estate for him that was Heir apparent, but also for the Issue of that Entail, and the Provision of the Act extends to him next inheritable; and to bring the Feme within this Act the Estate must come purely from the Husband or some of his Ancestors.

If the Husband alone suffers a Recovery of the Wife's Lands, she may enter after his Death. 32 *H.* 8. c. 28.

And a Feme may falsify a Common Recovery suffered by her Husband alone as to her Title of Dower only, and no longer or farther.

Baron and Feme are Tenants and vouch the common Vouchee; the Feme was an Infant, and appeared in Person, and not by Guardian; therefore it was reversed. *Cro. Eliz.* p. 321. *Hopton & Ux* vers. *St. Johns.*

Baron and Feme, Tenants in special Tail, levy a Fine to the Use of him and his Wife in special Tail, Remainder to Baron in Tail, Remainder over; in a *Præcipe* against the Conuſee he vouched the Baron, who vouches the common Vouchee, and a Common Recovery is suffered; this will not bar the Reversioner in Fee. 2 *Roll. Rep.* 447. *Duncomb and Wingfield.*

Concerning Common Recoveries by Infants,
Ideots and Madmen.

See Hobart
196.

Note; For the
Benefit of the
Family Equity
will decree an
Infant Trustee
to join in a
Recovery.

1 Ld. Raym.
113.

INFANTS by the Common Law are disabled to suffer Common Recoveries; but it has been the common Practice to do it by Privy Seal; and here observe, That tho' an Infant suffer a Recovery with a Privy Seal, yet it is in the Discretion of the Court whether they will permit it to pass; and the Judges do not permit it but when it will be advantageous to the Infant, and they examine very strictly into the Ends and Purposes of such Recovery before they admit a Guardian and suffer the Recovery to pass in open Court.

Note; A Tenant to the *Præcipe* (in Case of an Infant) must be made by Fine or Feoffment.

If an Infant Tenant appear by Guardian either as Defendant or Vouchee, he shall be bound as well as one of full Age; and if the Guardian feint pleads or mispleads, the Infant hath a good Action against him. Where an Infant comes in Person as Vouchee, Error lies not after full Age, because it must be tried by Inspection which cannot be after full Age. If he appears by Attorney, and suffers a Common Recovery, then it shall be reversed by Error; *aliter per Guardian*. *Sid.* 321. *Raby and Robinson*, 2 *Keb.* 141. 1 *Mod.* 48. *Hesket and Lee*, *Style* 246. So is *Earl of Newport* and *Sir H. Midway's Case*. Recovery against an Infant, who appears *per Guardian*, and voucheth over, is not erroneous.

A Tenant.

A. Tenant in Tail, the Remainder to *B.* in Fee; *A.* sold the Land to *J. S.* and his Heirs; and for Assurance made a Feoffment in Fee, and levied a Fine to *J. S.* to the Use of *J. S.* and his Heirs; by the Indenture of Bargain and Sale, *A.* covenanted to make such farther Assurance within two Years, as the said *J. S.* or his Heirs, or their Counsel should advise; before any Assurance made *J. S.* died, his Son and Heir within Age; it was devised, that for such farther Assurance, and Cutting off the Remainder, a Common Recovery should be suffered, in which the said Infant should be Tenant to the *Præcipe*, and should vouch the Vendor; and that the said Recovery should be to the said Infant and his Heirs. Two Precedents were shewn in such Case; one was the Case of the Earl of *Sbrewsbury*, and the other one *Wiseman's* Case. After some Doubt, upon the Appearance of a good and sufficient Guardian for the Infant, the Recovery passed. 1 *Leon.* N^o 296 *b.* and 5 *Mod.* 109, 110. Where a Common Recovery, being suffered by an Infant Feme Covert, was reversed; and the Error assigned was, That she being Vouchee and under Age, had appeared by Attorney: And 'twas said, If she had vouched in Person or by Guardian, it should not have been reversed for Error after full Age, because a Guardian is made by the Court, who will not admit of any one but such as shall be answerable for the Loss the Infant may sustain thro' his Default. But an Attorney is made by the Party, and an Infant is not supposed to have Discretion enough to choose an Attorney who will be faithful to him; and therefore she having here appeared by Attorney, and suffered

Vid. Hob.
197.
Cro.Car. 307.
Bridg. 73.
1 Rol. Abr.
731, 751,
752.
1 Sid. 322.

Of Common Recoveries.

a Recovery, it shall be reversed for the same after she comes of Age; because it shall be tried by the Country, Whether the Warrant of Attorney was made when under Age or not?

Neither can the Husband, tho' of full Age, make an Attorney for himself and his Wife, who is under Age, so as to bind the Inheritance of the Wife; but she being the Principal must be barred by her own Act; and therefore must appear in Court in such Manner as the Law hath directed by Reason of her Infancy.

But this is not like the Case of a Fine levied by an Infant, for that cannot be reversed but by the Infant himself during his Nonage: For it being the Act of the Court to suffer such a one to levy a Fine, the Court must therefore reform the same by Inspection, which cannot be after full Age. 5 *Mod.* 210.

In the Case of Sir *John St. Alban, Trin. 1 W. & M. in C. B.*—He being of the Age of Nineteen, his Sister (who was next in Remainder, and also his Heir) having married one of his Footmen, he petitioned the King for Leave to suffer a Recovery, who referred it to the Judges of *C. B.* before whom several Precedents of such Recoveries, suffered by Privy Seals, were cited, viz. One *Bivarny, 1 Junii 10 Car. 1.* One *Young, 23 Nov. 11 Car. 1.* Another *13 Car. 1.* Another *14 Car. 1.* Another *1 Jac. 2.* And two others *2 Jac. 2.* And another by *John, the Son of Sir John Croke, 10 Car. 2.* But the Judges observed, that seven of these Petitions were by Fathers upon the Marriage of their Sons, and an equal Recompence given; whereas here was neither Father nor Marriage to induce this Recovery

Recovery—and said, That this Matter had been carried too far already, and therefore disallowed it. 2 Salk. 567.

Note; An Infant that suffers a Common Recovery may not avoid it by Entry, but must avoid it by Writ of Error, *Style Rep.* 246. and during his Minority.

A Common Recovery suffered by Ideots and Madmen is unavoidable. See 2 *And.* 163.

Concerning Common Recoveries by Tenant by the Curtesy, Tenant in Tail, Tenant for Life and for Years, &c. and of falsifying Recoveries.

FOUR Things belong to an Estate of Tenancy by the Curtesy, *i. e.* Marriage, Seisin of the Wife, Issue, and Death of the Wife.

A Man cannot be said to be Tenant by the Curtesy of a bare Right, Title, Use, or of a Reversion, or Remainder expectant upon any Estate of Freehold, unless the particular Estate be determined during the Coverture. *Co. Lit. Sect.* 35.

If Tenant by the Curtesy suffers a Common Recovery without the Assent and to the Prejudice of him in Reversion or Remainder, the same is void, and bars not the Reversion or Remainder, but are Forfeitures. 14 *El. c.* 8.

If Tenant in Tail by Indentures covenants to stand seised to the Use of himself for Life, with Remainders in Tail, and afterwards he suffers a Common Recovery to other Uses in Fee; the Uses on the Recovery held good. *Machell and Clerk, Comyns* 119.

Of Common Recoveries.

Tenant in Tail Male, Remainder to himself in Fee, devises his Lands to J. S. and then suffers a Recovery to the Use of himself in Fee, and dies without Issue Male; this is a Revocation of the Will. 3 *Peere Williams* 163.

See the Case of *Thornby* and *Fleetwood* in *Comyns* 207. where a Recovery suffered by a Person bred a Papist, and instructed in a Seminary beyond the Sea in the popish Religion, held good notwithstanding the Statutes of 1 *Jac.* 1. c. 4. and 6. 3 *Jac.* 1. c. 5. and the 3 *Car.* 1. c. 2.

1 *Inst.* 224 a.

A Tenant in Tail cannot be restrained by Condition, &c. from suffering a Common Recovery. 2 *Rep.* 74. 10 *Rep.* 38, 42.

If Tenant in Tail grant a Rent in Fee, or make a Lease, and a Recovery be had against Tenant in Tail, and he dies, the Recoveror can avoid neither of them; for he is estopped to say Recoveree had not a Fee-Simple. *Popb.* 5.

And so if Tenant in Tail die before Execution, yet Execution may be sued against the Issue in Tail. *Moor* 137.

If Tenant in Tail makes a Mortgage, or confesses a Judgment, &c. and after suffers a Common Recovery, the Recovery shall enure to make good all his precedent Acts and Incumbrances. 1 *Chan. Case* 120.

Note; Where Tenant in Tail is Party to the Recovery, it cannot be by Collusion, because it is in his Power to dock the Remainder and Reversion. 10 *Co.* 45. *Et quia jus & fraus nunquam cohabitant.*

If a Man makes a Gift in Tail, determinable on the Donee's Nonpayment of 100 l. Remainder

Remainder to *B.* in Tail, Tenant in Tail suffers a Common Recovery before the Day appointed for Payment of the Money, and makes Default in Payment of the Money; yet the Recovery bars all, he being Tenant in Tail when he suffered the Recovery.

Land given to an Alien in Tail who suffers a Recovery, the Recovery is good, for an Alien is a good Tenant to the *Præcipe* until Offence found. *Lucas* 124.

If *A.* be Tenant in Tail, the Remainder to *B.* in Tail, Remainder to *C.* in Tail, Remainder to *D.* in Fee, *A.* makes a Feoffment, and the Feoffee suffers a Common Recovery, and doth vouch *B.* who voucheth over; by this Recovery *A.* is not barred at all, but *B. C.* and *D.* are barred of all their Remainders and Reversions. 3 *Co.* 6.

If a Man has an Estate limited to him and the Heirs Male of his Body as long as such a Tree stands, this Estate may be barred by a Common Recovery. *Pigott* 140.

Per Holt. It was resolved on solemn Argument in the Case of *Smith* versus *Barnaby*, that if one by Will devises a Rent-Charge to *A.* in Tail, the Remainder to *B.* in Tail, and *A.* suffers a Common Recovery to the Use of *J. S.* and his Heirs, and dies without Issue, the Remainder is barred. *Cases in B. R. W.* 3. 513.

If Issue in Tail comes in by Title above the Recovery, the Recovery of his Ancestor binds him not. 1 *Co.* 96. *a.*

If he in Remainder grants a Rent, and after the Tenant in Tail suffers a Common Recovery, and dies without Issue, the Remainder is discharged of the Rent. *Moor* 298.

Of Common Recoveries.

If a Rent *de novo* be granted in Tail without any Remainder over, and the Tenant in Tail suffers a Recovery thereof, tho' this Recovery will turn the Estate-Tail into a Fee; yet it will pass but a determinable Fee, which must end on the Death of the Tenant in Tail without Issue. 3 *Peere Williams* 230.

If Tenant in Tail suffers a Common Recovery, and Judgment entred, and the Tenant in Tail dies before Execution, yet Execution may be sued against his Issue. 1 *Co.* 6. *Moor* 137. And the Recoverors are not in Seisin of the Land till Execution, altho' the Land be in Lease for Years.

A Rent reserved upon a Gift in Tail is not barred by a Common Recovery, but it remains as a Collateral Charge upon the Land, distrainable of common Right; but if there had been a Condition of Re-entry for Non-payment, this Condition had been barred. 3 *Co.* 2. *Lev.* 30. 2 *And.* 170.

A Man makes a Feoffment to the Use of himself for Life, Remainder to his first Son in Tail, Remainder to his right Heirs; and before a Son is born, Tenant for Life suffers a Common Recovery, and after a Son is born, the Son cannot avoid the Recovery. 2 *Leon.* 224. Because the Remainder was contingent, and the Estate on which it depended gone. If there had been Feoffees to preserve contingent Uses, it had been otherwise.

A Condition that runs with the Land cannot be barr'd by a Common Recovery; *aliter* of a Condition Collateral. In the Case of *Page* and *Hayward*, 2 *Salk.* 570. there was a Devise to *M.* and the Heirs Male of her Body, on Condition she marry'd with, and had Issue

Issue by one of the Name of *Searle*; and in Default of both Conditions, to *E.* in like Manner; and in Default thereof, to *G. Searle* for 60 Years, if he so long lived; Remainder to his Heirs Male in Fee. *M.* and *E. C.* the Husband of *E.* join in a Fine to make one *J.* Tenant to the *Præcipe*; *J.* vouches *M.* and *E.* and *E.*'s Husband, and the Wife of the Devisor, and her second Husband, all jointly, and they all the Common Vouchee; and resolved *per tot. Cur.*

That the Devise to *M.* and the Heirs of her Body by one of the Name of *S.* was a good Estate-Tail; and so was the Devise to *E.* But it is a special Entail, a middle Entail, not the highest nor lowest; for it might have been to her and the Heirs Male of her Body begotten by *J. S.* which had been more particular, and yet a good Entail within the Stat. *de Donis*; for 'tis within the Reason of it.

The Words *upon Condition*, &c. tho' they are express Words of Condition, shall yet be taken as a Limitation in a Will; as in 1 *Vent.* 199, 202. (and the Ch. Just. said, He saw no Reason why they should not be so construed in a Deed,) and so the Sense is, That if she has no Issue by one *S.* at her Death, the Estate should remain over to *E.*

That the Estate-Tail of *M.* and *E.* or either of them, did not cease by marrying one of another Name; for the Remainder over is in Default of both Conditions; and in the mean Time 'tis limited to her and the Heirs Male of her Body; and she may survive her first Husband, and marry an *S.* after: And so there is a Possibility as long as she lives.

And

Of Common Recoveries.

And if the Estate had been to *M.* and the Heirs Male of her Body, by a *Searle* to be begotten; *Provided* and upon Condition if she marry any but a *Searle*, that then it shall remain to *J. N.* and his Heirs, yet a Common Recovery suffered before Marriage, will bar the Estate-Tail and all Remainders; and tho' she after marry with another, it shall not avoid the Recovery. And the Court took a Difference between a Condition collateral and a Condition that runs with the Land: As if a Donor reserve a Rent with a Condition to re-enter for Non-payment, a Recovery will not bar it: But otherwise, if it be to re-enter for Non-payment of a Sum in gross. 2 *Salk.* 570, 571.

Vide 1 Mod.
108, 111.

Case of *Hudson* and *Benson*, 2 *Lev.* 28, 29, 30. Where a Feoffment was made to the Use of *A.* in Tail; and if he dy'd without Issue, to the Use, that *B.* should have a Rent. *A.* makes a Lease for Years, and after suffers a Common Recovery. And 'twas resolv'd,

1st, That the Recovery had barr'd this contingent Rent, because it had barr'd all the Estates chargeable thereto. But agreed, if it had been granted precedent to the Feoffment, it had not been barr'd.

2^{dly}, That a Rent reserved on a Gift in Tail, is not barr'd by a Recovery, tho' a Condition of Re-entry is.

3^{dly}, Where there is an Estate-Tail and a Remainder for Years, a Recovery may bar both.

If one devise Land to another and his Heirs as long as *J. S.* hath Issue of his Body: In this Case no Recovery will bar him that made the Gift, of his Possibility to have the Land again, unless he be a Party to the Recovery by

Voucher;

Voucher; for a Recovery against a Tenant in Fee-simple shall never bind a collateral Interest, Title or Possibility, as a Condition, Covenant, or the like. 2 *Cro.* 593.

It is said, That if Land be to *E.* for Life, the Remainder to *B.* in Tail, the Remainder to *C.* in Fee: *B.* dieth, (his Wife being young with Child of a Son) and a Recovery is had against *E.* with the Assent of *C.* and afterwards a Son is born: In this Case, the Son shall not be holpen by the Statute 32 *H.* 8. for that the Remainder was not *in esse* at the Time of the Recovery. 2 *Leon.* 224. *Case* 285. *Quere de boc.*

So if a Feoffment be to the Use of himself for Life, and after of his eldest Son in Tail, and after of his Heirs (not having any Son at the Time of the Feoffment made) after he suffers a Common Recovery, and hath Issue a Son, who dieth in the Life of his Father, having Issue a Son, and after he dieth: In this Case the Son and Heir of the Son may not avoid this Recovery by 32 *H.* 8. 2 *Leon.* 224. but may avoid it by Common Law. 2 *Leon.* 224.

If *A.* be Tenant in Tail, the Remainder to *B.* in Tail, the Remainder to *C.* in Fee, and *B.* or *C.* doth make a Lease for Years of the Land, or grant a Rent-Charge out of the Land, or enter into a Statute, or the like, or grant the Remainder or Reversion upon Condition, and after *A.* doth suffer a Common Recovery of the Land, and then dieth without Issue, in this Case the Recoveror will hold the Land discharged of all these Estates, Remainders and Charges. 1 *Co.* 62. *Jenk. Cent.* 6. *cap.* 41. 6 *Co.* 43. *Moor* 298.

But

Of Common Recoveries.

But if a Common Recovery be had against Tenant in Tail, where there is a Remainder over to another, and he vouch over the Common Vouchee; in this Case, and by this he is barred, and his Issue, if he had any, and he in the Remainder is barred, and so is he in Reversion also, altho' it has been held otherwise. *1 Co. 63. Benl. 11.*

And if there be a Lease for Years, and a Recovery suffer'd of a Reversion, this will not hurt the Lease for Years, but he may falsify it by Stat. *11 H. 8. 15.*

But a Recovery suffer'd by Tenant in Tail after he hath made a Lease of the Land, or enter'd into a Statute, will make the Lease or Charge, that before was voidable, good against the Issue in Tail, and him in Remainder or Reversion; and the Recoveror also shall hold it charged, and subject to the Lease made by Tenant in Tail. *1 Co. 25. 44 Ed. 3. 22.*

If he in Reversion upon an Estate-Tail grant a Rent-Charge, and Tenant in Tail discontinue, this Charge is of no Effect until the Continuance of the Estate-Tail by him in Reversion, tho' Tenant in Tail die without Issue. *Jenk. Cent. 6. cap. 41.*

But where a Recovery is by Cullusion against Tenant in Tail, and the Tenant dies without Issue; such a Grantee may falsify this Recovery as a Stranger; but otherwise it is of Parties and Privies to it.

Error was brought on a Fine in *Lancaster* by Tenant in Tail; the Tenant in the Writ of Error pleads in Bar a Common Recovery had against the Cognisee of the Fine, with the Voucher of the Tenant in Tail; and it was resolv'd, That where Tenant in Tail comes in

in as Vouchee, he doth bar the Issue in the Writ of Error to reverse the erroneous Fine that he himself hath levied. *Moor* 499. *Barton* and *Lever*.

Tenant in Tail General, having Issue two Sons, the Eldest had Issue a Daughter; and died, his Wife with Child of a Son; the Father suffer'd a Common Recovery to the Use of himself for Life, the Remainder to the Recoverors for 24 Years, the Remainder to the Heirs Male of his Body, the Recovery was had returnable *Octob. Mich. viz. 9 Octob.* Upon that Day in the Morning the Tenant in Tail died, and after a Son was born; and if the Uncle, or Son new born, or the Daughter, should have the Land, was the Question of all the Justices. It was resolv'd, That the Issue Male of the Body should have it; for if it be by Purchase, because of the mean Estate for Years, the Uncle may not have it; for he that takes it must be Heir, as well as Male; and the Daughter of the Eldest Son is Heir; and it shall be to her by Discent till the Son is born; and by all the Justices, The Recovery is well executed against the Issue in Tail, because of the Recovery in Value. *1 Rep. Shelley's Case.*

Tenant for Life, the Remainder in Tail, the Remainder in Fee; Tenant for Life suffered a Recovery by Voucher of him in Remainder in Tail, who vouched the Common Vouchee: It was resolved in the Exchequer-Chamber, in a Writ of Error, that the Remainder in Fee was barred, as well as if the Tenant in Tail had been the Tenant to the *Præcipe*. *Moor* No. 953.

Of Tenant for Life.

32 H. 8. c.
31.

BY Stat. 14 *Eliz. c. 8.* a Common Recovery suffered by Tenant for Life, without the Consent of him in Reversion, is void, and will be a Forfeiture of his Estate. But this Act extends not to any Recovery, unless it be by Agreement or Covin, and is not to prejudice any Person that by good Title recovers any Lands, &c. without Fraud, by Reason of any former Right or Title; also every Recovery had by Assent of him in Reversion or Remainder, appearing of Record, shall be good against the Party so assenting; but then this Assent must appear upon the same Record, either upon a Voucher, Aid Prier, Receipt, or the like, for it cannot appear of Record unless it be done in Course of Law, and not by any extrajudicial Entry, or *Memorandum. Co. Lit. 362.*

If there be Tenant for Life, the Remainder in Tail, the Reversion or Remainder in Fee, if Tenant for Life be impleaded by Agreement, and he voucheth Tenant in Tail, and he vouch over the Common Vouchee, this shall bar the Reversion or Remainder in Fee, altho' he in the Reversion or Remainder did never assent to the Recovery, because it was not the Intent of the Act to extend to such a Recovery, in which a Tenant in Tail was Vouchee; for he hath Power by Common Recovery, if he were in Possession, to cut off all Reversions and Remainders. *Co. Lit. 362.*

Therefore if Tenant for Life surrender to him in Remainder in Tail, he may suffer a Common Recovery, and bar the Remainders

and Reversions expectant upon his Estate. *Ibid.* Because he is a good Tenant to the *Præcipe*, being in Possession by the Surrender, otherwise the Recovery would not have been good. See 1 Co. Marquis of *Winchester's* Case.

If a Man has an Estate for Life, with Power to make a Jointure, and suffers a Common Recovery, his Power is gone, for the Estate to which the Power was annexed is forfeited and gone by the Recovery, otherwise of a collateral Power to make Estates; as where Executors had Power to sell. *Vent.* 225, 226. *Pigott* 135.

Lease for Life to *A.* Remainder to *B.* in Tail, Remainder to *C.* in Tail, Remainder to the right Heirs of *A.* Proviso, that *A.* shall have Power to make Leases in Possession, Reversion or Contingency, to commence after the Death of *B.* without Issue, *A.* makes a Lease for Years, to commence after the Death of *B.* without Issue, *B.* suffers a Common Recovery, this bars the Lease. *Raym.* 236. So if an Estate be limited to one for Life, Remainder to his first and other Sons in Tail Male, and for want of such Issue to Trustees for 500 Years. If any Tenant in Tail in Possession suffer a Common Recovery, the Remainder for 500 Years is barr'd. *Pigott* 136.

Where Lands are devised to *A.* for Life, and if *A.* shall leave Issue Male, then to such Issue Male and his Heirs for ever, and if *A.* shall leave no Issue Male, then to *B.* in Fee, if *A.* suffers a Common Recovery of these Lands, and five Years past, the right Heirs of the Testator are barred, in regard they ought to have entred upon such Forfeiture, and have

no

Of Common Recoveries.

no new Entry upon the Death of Tenant for Life. 1 *Peere Williams* 520.

Father Tenant for Life, Remainder to the Son in Tail, Remainder to the right Heirs of the Son, the Son in the Life of the Father makes a Lease for Years, and then suffers a Common Recovery, and dies without Issue; the following Points were held clearly,

1st, That when the Son makes a Lease for Years, this operates as well out of his Remainder in Fee as out of his Estate-Tail, so that when he dies without Issue, this is a good Lease against the Heir in Fee, unless the Issue of Tenant in Tail had entred and avoided.

2^{dly}, When Tenant in Tail makes a Lease for Years, and then suffers a Recovery, this works by way of Corroboration upon the Lease, and makes that good. *Freeman* 310.

Of Tenant for Years.

COMMON Recoveries suffered by such Tenants, Tenants after Possibility of Issue extinct, &c. either as immediate Tenants or as Vouchers, without the Assent, and to the Prejudice, of him in Reversion or Remainder, are void, and bar not the Reversion or Remainder, but are Forfeitures, unless where Tenant in Tail vouches. 14 *Eliz. c. 8*.

Lessee for the Life of another makes a Lease for 60 Years and dies, and the Tenant in Tail suffered a Common Recovery, the Recovery is erroneous for want of a good Tenant to the *Præcipe*, for the Lessee for Years, (the Freehold being cast on him as Occupant) or some claiming under him, ought to have been Tenant to the *Præcipe*. 1 *Keb.* 735, 785.

If

If one makes a Lease for Years, to begin at *Michaelmas*, and reserves Rent, and before the Lease commences he suffers a Common Recovery, the Recoveror may distrain for the Rent, which Lessor before the Recovery could not. 1 *Inst.* 104.

A Recovery can't be suffered by Tenant for Years for want of a Freehold.

Of Avoiding or Falsifying of Common Recoveries.

BY the Common Law none could falsify a Recovery but he who had the Freehold. 2 *Inst.* 322. But this was before Feigned Recoveries came in Practice.

A Common Recovery may be defeated, frustrated and reversed, *i. e.* falsified for many Causes and many Ways, sometimes it is by Writ of Error, upon some gross Error in the Manner of the Proceeding.

And a Common Recovery must be avoided by one whom it doth concern, and that otherwise should have had the Land, and not by any whom it doth not concern. A Common Recovery may be reversed by Entry and Plea, when the Party's Entry is not taken away by the Recovery, and he brings his Assise, and the Recovery is pleaded against him, and he pleads Matter to avoid the Recovery. By Action and Plea, to wit, when the Entry of the Party that has Right, is taken away by the Recovery, and on a Real Action brought the Recovery is pleaded in Bar of the Right, and this may be falsified by Plea; Action only, or by Plea only.

Sir Tho.
Raym. 29.

Of Common Recoveries.

The Causes for Falsifying Recoveries are
 * *Covin*, an elder Right or Title, Want of Jurisdiction in the Court, Warranty and Assents, a Release, Feint Pleading, no Tenant to the Freehold, or Want of Estate in the Tenant.
Pigott 157.

The Issue in Tail against a Common Recovery had by the Ancestor, may say, That he was not Tenant to the *Præcipe*, nor seised of an Estate Tail *tempore brevis*; and this is a good Bar. 3 Co. 11.

As where he in Remainder in Tail discontinues the Estate-Tail, and takes a new Estate, and then suffers a Common Recovery; by this the Estate-Tail is not barred, for he was not seised of it.

So if Tenant for Life, and he in Remainder in Tail, suffer a Common Recovery; by this the Estate-Tail is not barred, for he was not seised of it.

So if Tenant for Life, and he in Remainder in Tail, suffer a Common Recovery, and both vouch over the Common Vouchee.

So if *A.* be Tenant in Tail, Remainder to *B.* in Tail, Remainder to *C.* in Tail, Remainder to *D.* in Fee; *A.* makes a Feoffment, the Feoffee doth suffer a Recovery, and vouch *B.* who voucheth over; *A.* is not barred, but *B. C.* and *D.* are barred, and all their Remainders, 1 Co. 3. as is before observed.

If an erroneous Recovery be suffer'd by Tenant in Tail; in this Case his Issue, or if

* *Covina* is a secret Assent, determined in the Hearts of two or more, to the Defrauding and Prejudice of another. Co. Lit. 357. And *Covinous* Recoveries are void by 14 Eliz. cap. 8. sect. 2.

they fail, the next in Remainder or Reversion, shall defeat it.

So also if the Land be recover'd against a Tenant in Tail, the Disseisee shall avoid it.

And if the Land be recover'd against a Disseisor, the Disseisee shall avoid it;

And the Land recover'd against him in Reversion or Remainder; the Tenant by *Statute*, *Elegit*, or for Years, shall avoid it.

But in these Cases they must avoid it during their particular Estates, and may not do it afterwards.

So he in Reversion or Remainder may falsify and avoid a Recovery suffered by the Tenant for Life, either in the Life-time of the Tenant, or afterwards, to which he was not privy.

But a Stranger shall never take Advantage of a Recovery, altho' it be erroneous. *Jenk. Cent. 8. Case 32.*

But neither he in Reversion or Remainder, or any by or under him, or any other, may falsify a Recovery suffer'd by Tenant in Tail in Possession, except it be for the Causes before set down.

The Recoveror himself may not falsify a Recovery, nor a Guardian, or a Tenant of a Manor; as if one hold a Manor, and a Stranger recover the Manor by a feigned Title, a Tenant of the Manor may not falsify it.

But a Termor for Years may falsify a feigned Recovery had against him in Reversion, and shall retain and enjoy his Term against the Recoveror, his Heirs and Assigns, according to his Lease, by the Statute of 21 H. 8. 15.

Sometimes it may be avoided by Entry, as well as by Writ of Error and Pleading.

Of Common Recoveries.

Sometimes it hath been made void by the Sentence of a Court called a *Vacat*, when the Recovery hath been by Covin; as where Tenant for Life shall suffer a Recovery to disinherit him in the Reversion, or by some undue Practice, or sinister Dealing.

And this hath been done only upon the Discovery of the Matter of Practice to the Court, upon which only the Court doth make void the Judgment. *Plowd.* 515. *1 Co.* 62, 63, 64. *Dyer* 249.

A Termor for Years, by Deed, or without Deed, may falsify a feigned Recovery had against him in Reversion, and shall retain and enjoy his Term against the Recoveror, his Heirs and Assigns, according to the Lease; and the Recoveror shall have like Remedy against the Termor, his Executors or Assigns, or Action of Debt for Rents and Services reserved upon such Lease, and due after such Recovery, as the Lessor might have had if such Recovery had never been.

Also Tenants for Years by Statute Staple, Merchant, or *Elegit*, may also falsify such Recoveries as the Lessee for Years may do; Statute 21 *H. 8. cap.* 15. *Co. Inst.* 2 Part, 322, 323.

Note; If an Infant reverse a Recovery for Non-age, he must do it under Age. *1 Lev.* 142. *1 Mod.* 49.

By the Statute of *Glouc. c.* 11. Lessees in *London* may falsify. See *Pigott* 54.

Concerning

Concerning the King, &c.

THE King cannot suffer a Common Recovery, for if he does, he must be Tenant or Vouchee, and in both Cases the Demandant must count against him, and there must be Judgment against him, which the Law doth not allow, and therefore he cannot come in as Tenant by Receipt; but if the Party have any Warranty, he must pray him in Aid. 1 Cro. 96, 97.

By the 34 & 35 H. 8. c. 20. it is enacted, That if the King gives any of his own Manors, Lands, &c. or cause or procure another in Consideration of Money or other Lands, to give any Manors, Lands, &c. to any of his Subjects or Servants in Tail, in Recompence of their Service, Remainder to the King in Fee-Simple or Fee-Tail, that no Feigned or Common Recovery hereafter to be had by Assent of Parties, against any Tenant or Tenants in Tail of any Lands, Tenements and Hereditaments, whereof the Reversion or Remainder at the Time of such Recovery had shall be in the King, shall bind or conclude the Heirs in Tail; but that after the Death of every such Tenant in Tail, against whom such Recovery shall be had, the Heirs in Tail may enter, hold and enjoy the Lands, &c. recovered according to the Form of the Gift in Tail, the said Recovery notwithstanding.

By an Act in Law, a Remainder or Reversion may be divested out of the King, but not by Act of the Party; as if there be Tenant in Tail, Remainder to A. in Fee, Tenant in Tail discontinues in Fee, and takes back an Estate

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to himself for Life, Remainder to the King in Fee, Tenant in Tail dies, the Issue is remitted, and the Remainder pulled out of the King, and vests in *A.* but the Act of the Party, as a Fine or Common Recovery, shall never devert any Estate, Remainder or Reversion out of the King; but if a Recovery be on good Title against Tenant in Tail, and the King has the Remainder by defeasible Title, there it shall devert the Remainder out of the King, and restore and remit the right Owners. *Piggott* 86, 87.

J. P. Tenant in Tail, Remainder in Fee to *T. P.* *T. P.* by Deed enrolled grants his Estate, Right and Remainder to Queen *Eliz.* in Fee, during the Life of *J. P.* and after his Death, so long as any Issue Male of *J. P.* shall live. *J. P.* suffers a Common Recovery, and dies without Issue, *T. P.* enters. *Per. Cur.* The Common Recovery shall bar the Remainder of *T. P.* notwithstanding his Grant to the Queen; for the Grant to the Queen is void, because it can never come in Possession; for by the Death of *J. P.* Tenant in Tail *sans* Issue, the Estate of the Queen is determin'd; but if such Grant of the Reversion had been made to the Queen, it had been good, because, during the first Entail, there shall be an Attendancy for the Service, &c. *Yelv.* 249. *Pool and Needham*

Tenant in Tail of Lands, the Remainder to another in Fee, he in Remainder by Deed indented and enrolled, in Consideration of Blood, &c. as for other good Considerations, doth covenant to stand seiz'd to the Use of himself and the Heirs Male of his Body, and for Default thereof, to the Use of the Queen, her Heirs and Successors; after the Tenant in Tail
in

in Possession suffereth a Common Recovery with Voucher. It was adjudg'd that the Issue in Tail was barred, for good Considerations are too general to raise an Use without Special Averment, that valuable or other good Consideration was given. Resolv'd also, That the Land should continue in his Name and Blood, is not a Consideration to raise an Use to the Queen, though the Limitation to her were for the Preservation of the Tail against Discontinuances and Bars, for there wants *Quid pro Quo*.

And admit the Consideration had been sufficient to raise an Use to the Queen, yet that would not preserve the Estate-Tail by Force of the Act 34 H. 8. for no Estate-Tail is preserv'd by Force of the said Act, except the same Estate-Tail be of the Creation or Provision of the King, and not where the Estate-Tail is given or created by a Common Person without Provision of the King, as may appear by the Preamble of the Act. 2 Rep. *Wise-man's Case*, Moor, N^o. 935.

If the King grant an Estate-Tail, reserving the Reversion to himself, and after grants the Reversion to another, Tenant in Tail may suffer a Common Recovery, and thereby bar the Reversion.

If a Subject by the King's Provision or Procurement makes a Gift in Tail, and then grants the Reversion to the King for Life or Years only, in this Case the Estate-Tail, Remainders and Reversions may be all barred by a Common Recovery.

If there be Tenant in Tail, Remainder or Reversion in Fee to another, and he in Remainder or Reversion, by Deed of Bargain

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and Sale enrolled, bargain and sell his Reversion to the King, or if one covenant to stand seised to divers Uses, Remainder to the King in Fee, if Tenant in Tail, in either of these Cases suffers a Common Recovery, this bars these Reversions. *Pigott* 88, 89.

Of Errors in Common Recoveries.

BY the 23 *El. c. 3.* no Common Recovery shall be reversed for false or incongruous *Latin*, Rasure, Interlining, Misentry, Omission of the Return of the Sheriff, or any other Want of Form.

And by the Statute 10 & 11 *W. 3. c. 14.* Error to reverse a Fine or Common Recovery must be brought within 20 Years; if Person *infra*, &c. then within five Years after Impediment removed, and not afterwards.

A Common Recovery reversed, for that the Vouchee died between the Teste of the Summons to Warranty and the Return. *Barnardiston*, 284.

If the Vouchee die before Judgment, or be under Age, and appear in Person, or by Attorney, it is Error.

If he who suffers a Common Recovery levy a Fine, or make a Feoffment, he cannot have a Writ of Error to reverse it. *Pigott* 169. And in the Case of *Barton and Lever*, *Moor* 499. Error was brought on a Fine in *Lancaster* by Tenant in Tail, the Tenant in the Writ of Error pleads in Bar a Common Recovery had against the Conusee of the Fine, with the Voucher of the Tenant in Tail; and it was resolved that where Tenant in Tail comes in as Vouchee,

Vouchee, he doth bar the Issue in the Writ of Error to reverse the erroneous Fine which he himself hath levied.

Note; An erroneous Recovery is good till reversed;

And that most Errors in a Common Recovery are amendable the first Term after the Recovery is had.

Pasch. 10 W. 3. in B. R. where a Recovery having been reversed in *B. R.* that Reversal was also there reversed; and so the Recovery remained good, *viz.* A Writ of Error was brought in this Court to reverse a Common Recovery, and there was a *Sci. fa.* issued against all the Tertenants, and they made Default; whereupon it was reversed: But it appearing afterwards, that the Plaintiff in the Writ of Error had no Title, there being a Remainder-man before him, the Court reversed their former Reversal. *Quod nota. 5 Mod. 397.*

Note; There must be a *Sci. fa.* against both the Heir and Tertenants, when a Writ of Error is brought to reverse a Recovery, &c. *Vide 3 Mod. 274. 1 Salk. 339. 2 Salk. 598.*

Common Recoveries amended.

LANDS being said in the Recovery to lie in *Parochia Sancti. Mariæ Salvatoris* in Southwark, but the proper Name being *Sancti Salvatoris*, the Court gave Leave to rase the Word *Mariæ*.

Trin. 8 W. 3. a Recovery was suffered, but by Mistake two Villis were omitted in all the Proceedings of the Recovery, and ordered to be

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be amended by the Deed declaring the Uses.

Comyns 386. A Common Recovery was suffered of one

Messuage only instead of two Messuages and a Garden, and ordered to be amended. *Trin.*

13 *Car.* 1. *Michaelmas* 5 *W. & M. Wattry* versus *Jod-*

rell, where the Writ of Entry was returnable before the Date of the Deed to make a Tenant to the *Præcipe*, and ordered to be amended.

A Common Recovery suffered by a Man and his Wife, but the Name of the Wife was omitted, and ordered to be amended. *Tbur-*
band versus *Pantry*.

Michaelmas 11 *W. 3.* a Common Recovery was agreed to be suffered of Lands in *Weston*, but the same in the Recovery was called *Waston*, and ordered to be amended. *Smith* Demandant, and the Earl of *Dorset* and others Tenants.

Michaelmas 13 *Car. 1.* where a Fine and Recovery are of two Messuages and one Garden, and the Prothonotary in his Remembrance entred the *Præcipe* and Recovery of one Messuage and one Garden, and a Writ of Entry was made out of one Messuage and one Garden, and ordered that the Cursitor amend the Writ of Entry, and that the Entry of the Recovery be also amended. *Drake and another* versus *Biddulph*.

Trinity 13 *Car. 1.* the Word *Newchurch* omitted in the Recovery, and ordered to be amended. *Wightwick and another* ver. *Masters*.

In a Common Recovery the Tenements were said to lie in *Lamarsh*, when in fact they lie in *Great Henney*, and ordered to be amended.

Michaelmas 6 *Car. 1.*

In

In a Recovery the Words *Clarendon* and *Clarendon Park* were omitted, and ordered to be amended. *Hil. 5 Ann.*

Recovery ordered to be compleated tho' no Exemplification ingrossed, or the Writs filed. *Sheppard* Demandant, *Harris* Tenant, *Dewey* Widow and others Vouchees. *Easter 9 Ann.*

A Recovery agreed to be suffered by *A. B.* and *Richard C.* the Writ of Entry was sued out in the Name of *John C.* instead of *Richard*, but ordered to be amended. *Clapham* versus *Bacon*, *Trin. 2 Car. 1.*

A Warrant to suffer a Recovery by *W. R.* and *H.* his Wife; the Serjeant had certified that the Warrant was given by *W. R.* and *M.* his Wife, the *Mittinus* and Transcript and the Recovery entred accordingly, but ordered to be amended. *Mich. 4 Car. 1.*

A Recovery ordered to be entred of Record above 60 Years after it was taken at Bar. *Ives* and others, Demandants, versus *Young* Tenant, *Frampton* Vouchee. *Trin. 12 W. 3.*

B. bargains and sells all his Lands lying in the Parish of *Rippon* to Defendant, and covenants to do further Acts, &c. for Assurance, then a Common Recovery is suffered of 100 Acres of Land lying in *Rippon*, and the Jury (in Ejectment) find that the Parish of *Rippon* did contain several Vills, amongst which one was called by the Name of *Rippon*, but *B.* had no Lands in that Vill; and they find farther, that it was the Intent of the Parties, that all the Lands in the Parish of *Rippon* should pass.

The Question was, Whether or no this Recovery would pass the Lands which lay out of the Vill of *Rippon*, but in the Parish of *Rippon*.

And

Of Common Recoveries.

And the whole Court were of Opinion, that the Lands in the Parish of *Rippon* should pass, 1st, Because otherwise the Recovery would be void, it being found that *B.* had no Lands in the Vill of *Rippon*. 2^{dly}, It appears plainly to be the Intent of the Parties, that this should be intended the Parish of *Rippon*, (not because the Jury have found it, for the Judges said they would not regard that,) but because it appears by the Indenture of Bargain and Sale, that it was intended the Parish of *Rippon*, and here that Deed and this Recovery make but one Assurance, according to *Cromwell's Case*, 2 *Co.* and shall be construed in Congruity to the other, as one Part of a Deed shall by another, and compared it to a Fine levied by an Infant, and a Deed is executed to declare the Uses, the Deed binds because the Fine binds, and both make but one Assurance.

And *per Atkins*, originally the Kingdom, in reference to Civil Matters, was divided into Vills only, and Parishes were Divisions only in reference to Ecclesiastical Affairs, and the Common Law took no Notice of them, for a Fine was not admitted of Lands in Parishes; but in Process of Time Parishes became Divisions taken Notice of in reference to Civil Matters, and are now used in Fines.

And altho' a Place spoken of simply is intended a Vill, yet *Stabitur præsumptioni donec probetur in contrarium*, and here is sufficient Proof, that it is intended the Parish of *Rippon*, and not the Vill of *Rippon*, and so Judgment was given for the Defendant *Nisi*, in *Trinity Term* 1677. And afterwards in *Hilary Term* this Case was argued again, and Judgment was given

given for the Defendant. *Adefon* versus Sir
Jo. Ottway, Freeman 227, 240.

Thus may we observe, how far Common Recoveries (as they are now become Common Assurances) are favoured in the Eye of the Law, and the Willingness of the Judges to extend their Power (in their Support) even to serve the Parties Intentions; but at the same Time to keep up the Form of Judicial Proceedings: And Common Recoveries are not to be shaken or reflected on, for they are as so many Mediums betwixt a rash and a deliberate Act, and for that Purpose kept up.

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